

CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

Agenda	Item	#	1

Prepared By:

Council Services & Records Manager

Submitted By:

City Manager

PROCLAMATION FOR VETERAN'S DAY

RECOMMENDED ACTION:

Approve Proclamation Proclaiming and Recognizing November 11, 2002 as *Veteran's Day*

EXECUTIVE SUMMARY:

Mayor Kennedy has received an invitation from Santa Clara County Board of Supervisor Pete McHugh, District 3, to attend the 4th Annual Veterans Resource Fair scheduled for November 8, 2002 at the National Guard Armory, 251 West Hedding Street, San Jose. The primary goal of the event is to assist veterans in health-related issues and human service needs. The Veterans Resource Fair hours are from 9:00 a.m. to 3:30 p.m. with a special program to be held from 12:30 p.m. to 1:30 p.m. A flyer regarding this Fair is attached for Council reference.

Supervisor McHugh is requesting that the City of Morgan Hill approve a Proclamation, declaring and recognizing Monday, November 11, 2002 as Veteran's Day. The attached Proclamation facilitates this action.

FISCAL IMPACT: Preparation of the staff report is accommodated in the Council Services and Records Management budget.



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

SUBDIVISION APPLICATION SD 02-06: CENTRAL -

CENTRAL PARK. (APN 767-27-037)

Agenda Item # 2
Prepared By:
Planning Manager
Submitted By:
City Manager

RECOMMENDED ACTION(S):

Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

EXECUTIVE SUMMARY: A request to subdivide a 0.97-acre parcel to allow for the construction of 8 units which will represent phase 5B of the Central Park project located on the north side of East Central Avenue at Calle Hermosa, north of El Toro Elementary School.

The applicant, South Valley Developers, currently has homes under construction within Phase V of the project. Phase I allotments were awarded during the 1993 Measure "P" competition. Phase II received 14 building allotments for Fiscal Year 1998-99. Phase III received 13 building allotments for Fiscal Year 1999-2000. Phase IV received building allotments for 25 units in Fiscal Year 2000-01 and 25 units in Fiscal Year 2001-2002.

The applicant received the following building allotments in the most recent Measure P competition: FY 2001-2002/3 allotments, FY 2002-2003/10 allotments, and FY 2003-2004/13 allotments - for a total of 24 building allotments for Phase V of the Central Park Project.

The precise development plan for the entire 164-unit Central Park project was approved by the City Council on February 6, 2002. At that same time the City Council approved a 18-lot subdivision for the first portion of Phase V of the development. The current subdivision application for this project is for the remaining eight lots in Phase V.

Section 17.20.110 of the Subdivision Ordinance provides for City Council review of tentative maps which have been approved by the Planning Commission. The Council may schedule a hearing to reconsider the Commission action, or by taking no action, let the Commission's action of approval stand.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 6, 2002

SUBDIVISION APPLICATION SD 02-07: Llagas-

Delco/Dividend

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

Agenda Item # 3
Prepared By:
Senior Planner
Approved By:
Community Development Director
Submitted By:
City Manager

EXECUTIVE SUMMARY:

A request to subdivide a 6.2-acre area to allow for the construction of 21 units which will represent phase III of the Monte Villa project located on the west side of Hale Ave., 600 ft. south of the Hale Ave./Llagas Rd. intersection.

Phase I & II of the project consists of 41 single family homes located on a 14.5 acre area on the south side of Llagas Ave. Phase III is the final phase of the project which is located on the west side of Hale Ave. The Monte Villa project wraps around the Cross Road Villa and Carden Academy sites generally located on the south west corner of the intersection of Hale Ave. and Llagas Rd.

The proposed lot sizes within the phase III area range in size from 3048-7458 sq. ft. Each of the proposed lots meets the recommended 40 ft. lot width, with the exception of lots 15 & 18 which are interior triplex units. The lots appear to be adequately sized to accommodate the proposed units.

The subdivision layout as proposed is consistent with the 2001 Measure P proposal. The lot size transition within the development works well within the project and also with the adjacent and future development within the area.

Phase III project improvements include the completion of Hale Ave., Llagas Creek improvements, dedication of 2.6 acres of additional open space, and the completion of a street connection to Hale Ave.

Section 17.20.110 of the Subdivision Ordinance provides for City Council review of tentative maps which have been approved by the Planning Commission. The Council may schedule a hearing to reconsider the Commission action, or by taking no action, let the Commission's action of approval stand.

This application was reviewed by the Planning Commission at its October 8, 2002, meeting. The Commission voted 7-0, approving the request. The Planning Commission resolution, conditions of approval and subdivision map are attached. The staff report and minutes for the subdivision are attached to the development agreement and RPD amendment request within this same agenda.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

ANNEXATION APPLICATION, ANX-00-02: COCHRANE - LUPINE

RECOMMENDED ACTION(S):

Adopt amended Resolution incorporating the findings required by the Local Agency Formation Commission

Agenda Item # 4
Prepared By:
Associate Planner
Approved By:
Community
Development Director
Submitted By:
C'4 Manager
City Manager

EXECUTIVE SUMMARY:

On August 21, 2002, the City Council adopted Resolution No. 5608, approving "Cochrane Road Annexation No. 10" and removal of the subject properties from the South Santa Clara County Fire Protection District. Cochrane Road Annexation No. 10 includes two parcels totaling 55 net acres in size (approximately 57.97 gross acres), located at the southeast corner of Cochrane Road and Peet Road.

Following Council's approval of the annexation, Staff submitted a city-conducted annexation application to the Santa Clara County Local Agency Formation Commission (LAFCo). Upon review, the LAFCo staff is requesting that additional required findings be included in the City's approval resolution (Resolution No. 5608). As a result, Staff has revised the approval resolution to be consistent with LAFCo's requirements, and requests the Council to adopt the amended resolution. The new findings are contained in Sections 3 and 4 of the attached resolution.

For the Council's reference, a copy of the August 21 Council staff report and Resolution No. 5608 are attached.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

RESOLUTION NO. 5620

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION OF TERRITORY DESIGNATED "COCHRANE ROAD ANNEXATION NO. 10," APPROXIMATELY 57.97 ACRES LOCATED AT THE SOUTHEAST CORNER OF COCHRANE ROAD AND PEET ROAD, AND WITHDRAWAL OF SAID TERRITORY FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT. (APNs 728-34-003 & -004)

WHEREAS, a written petition has been filed in the office of the City Clerk of the City of Morgan Hill in accordance with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: annexing into the City of Morgan Hill certain territory located in the County of Santa Clara, State of California, hereinafter more particularly described; and

WHEREAS, said petition has been signed and consented to by the owners of the land in the territory proposed to be annexed; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body and therefore the City Council of the City of Morgan Hill is now the conducting authority for said annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory, the City Council may approve or disapprove the annexation without public hearing: and

WHEREAS, evidence was presented to the City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1: That the City Council is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated "Cochrane Road No. 10," more particularly described in Exhibits "A and B";

SECTION 2: The territory described is hereby withdrawn from the South Santa Clara County Fire Protection District in accordance with Section 13952 of the California Health and Safety Code (APNs 728-34-003 & -004)

SECTION 3: The following findings are made by the City Council of the City of Morgan Hill:

- a. That said territory is uninhabited and comprises approximately 57.97 acres.
- b. That the annexation is consistent with the orderly annexation of territory within the City's urban service area and is consistent with the City policy of annexing when all city services can be provided.
- c. An expanded environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration has been filed.
- d. The City Council on February 7, 2001 enacted Ordinance No. 1501 pre-zoning the subject territory with an R-1 (12,000), Single family Low Residential zoning designation.
- e. That the territory is within the city urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
- f. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies.
- g. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
- h. That the proposed annexation does not split lines of assessment or ownership.
- i. That the proposed annexation is consistent with the City's General Plan.
- j. That the territory to be annexed is contiguous to existing City limits.
- k. That the City has complied with all conditions imposed by the commission for inclusion of territory in the City's urban service area.

SECTION 4: The Council finds that all affected local agencies that will gain or lose territory as a result of this reorganization have consented in writing to a waiver of protest proceedings.

SECTION 5: The Council finds that all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.

City of Morgan Hill Resolution No. 5620 Page - 3 -

SECTION 6: Said annexation is hereby ordered without any further protest proceedings pursuant to Sections 56663(c) and 56663(d) of the California Government Code.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be detached from the unincorporated portion of the County of Santa Clara.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be taxed on the regular county assessment roll, including taxes for existing bonded indebtedness.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

₹ CERTIFICATION **₹**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5620, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
-	IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: NOVEMBER 6, 2002

COMMUNITY AND CULTURAL CENTER PROJECT OPERATIONAL PROCEDURES, POLICIES AND GUIDELINE SUPPORT

RECOMMENDED ACTION(S): Authorize amending the contract agreement with Sports Management Group to provide services with the operational planning for the Community and Cultural Center not to exceed \$10,000.

Agenda Item # 5
Prepared By:
[
Recreation &
Community Services
Manager
Submitted By:
City Manager

EXECUTIVE SUMMARY:

Sports Management Group has been under contract with the City to provide programing and operator services for the indoor community recreation center and have provided support for the development of the operational policies, procedures and guidelines for the Community and Cultural Center. Sports Management Group were initially contracted to provide analysis on the rental rates and potential cost recovery of the Community and Cultural Center as well as programing assumptions.

Sports Management Group have also assisted with the development of the policies, procedures, guidelines to provide for an operational facility. The end product is the completed procedure manual, staff policy manual, rental forms, catering packages, and overview of equipment purchases.

Sports Management Group also researched and provided the itinerary and personal tour of the Colorado Recreational Facilities Tour.

Staff is recommending the extension of their contract for \$10,000 for a total amount of \$97,500.

FISCAL IMPACT:

\$10,000 to be charged equally to the following accounts: Business Assistance and Housing Services CIP account: 317-82231-8010-219097 and to Recreation 010-42231-2110 services and supplies.



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

ADOPTION OF RECLASSIFICATION OF EVENT COORDINATOR POSITION AND SALARY RANGE TO THAT OF RECREATION SUPERVISOR (FACILITIES AND EVENTS)

RECOMMENDED	ACTION(S):

Adopt the attached revised classification specification assigning the Event Coordinator Position to the Recreation Supervisor classification and salary range under Management Resolution 5320.

Agenda Item # 6	
Prepared and Approved By:	
HR Director	
Submitted By:	
City Manager	

EXECUTIVE SUMMARY:

The classification specification and salary range for the new position of Event Coordinator for the Community and Cultural Center was approved by City Council on May 15, 2002. At the time this position was established, it was recognized that it would be an integral part of the City's plan for the new Community and Cultural Center, however the full scope of the position's duties and responsibilities was uncertain. Council approved the position for the 02-03 budget. An employee was selected for the position and began work on September 3rd. It is now evident that the full scope of responsibilities and level of independent judgment is much greater than originally forecast, more in line with the mid-management, exempt position of Recreation Supervisor. In addition, the position was originally intended to report to the Recreation Supervisor. That has proven to be both ineffective and inefficient since the roles and responsibilities of the two positions are so similar. The two Recreation Supervisor (Recreation Programs and Facilities/Events) positions will report directly to the Recreation and Community Services Manager.

The HR Director has met and conferred on this change in position status with AFSCME, which represents the original Event Coordinator classification. AFSCME concurs with the change in status and is supportive of the reclassification.

FISCAL IMPACT:

An appropriation to the Community and Cultural Center 010-2115 budget will need to be made to the 2002-03 budget in the amount of \$26,350 to cover increased salary and benefit costs. There will be long-term cost savings by the decrease in overtime obligations.



CITY COUNCIL STAFF REPORT MEETING DATE: NOVEMBER 6, 2002

FINAL MAP ACCEPTANCE FOR MONTE VISTA PH. II (TRACT 9385)

RECOMMENDED ACTION(S):

- 1) Approve the final map, subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

Prepared By: Senior Civil Engineer Approved By: Public Works Director Submitted By: City Manager

Agenda Item # 7

EXECUTIVE SUMMARY:

Tract 9385 is a 13 lot subdivision located on the west side of Hale Road approximately 1000 feet south of the Hale Avenue and Llagas Road intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on June 12, 2001.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL IMPACT:

Development review for this project is paid from development processing fees.



CITY COUNCIL STAFF REPORT MEETING DATE: NOVEMBER 6, 2002

AWARD OF CONTRACT FOR CONSTRUCTION OF TENNANT AVENUE NORTHBOUND RAMP SIGNALS

RECOMMENDED ACTION(S): Award contract to McGuire and Hester for the construction of 101/Tennant Avenue Northbound Ramp Signals in the amount of \$197,500.

Agenda Item #8	
Prepared By:	
l. 	_
Associate Engineer	
Approved By:	
Public Works Direc	_ tor
Submitted By:	

City Manager

EXECUTIVE SUMMARY: The scope of work for the project includes the installation of a traffic signal, including modifications to street striping and lighting, and all necessary appurtenances to complete the work. In addition, roadway improvements will eliminate the existing northbound off-ramp free right-turn and include provisions for pedestrian/bicycle crossing facilities.

The bid opening was held on October 22, 2002 and the bids received are listed below. The low bidder has many years of experience in underground pipelines, grading, paving and concrete structures in the East Bay area, but has not previously performed work for the City of Morgan Hill. McGuire and Hester has listed two subcontractors, Beltramo Electric and Chrisp Company, for electrical and striping work respectively. Beltramo Electric is located in Morgan Hill and Chrisp Company in Fremont. Staff recommends award of the contract to McGuire and Hester. Construction is scheduled to begin in December 2002 and be complete in 85 working days. The engineer's estimate for this project, including a 10% contingency was \$220,100, and the low bid is 1% below the engineer's estimate.

McGuire and Hester	\$197,500
Columbia Electric, Inc.	\$211,325
Granite Construction Company	\$223,250
Steve Lacki Electrical Construction	\$239,248
Wattis Construction Company, Inc.	\$273,530
Granite Rock Company/Pavex Division	\$274,250

FISCAL IMPACT: The total contract cost for this project is \$217,250, which includes a 10% contingency of \$19,750. Funds were budgeted in fiscal year 2001-02 from RDA funds and have been carried forward into the current fiscal year, CIP project #502093.



CITY COUNCIL STAFF REPORT **MEETING DATE:** November 6, 2002

AWARD CONTRACT FOR OAK CREEK PARK TENNIS

COURT RESURFACING

RECOMMENDED ACTION:

Award contract to Vintage Contractors, Inc. for the construction of the Oak Creek Park Tennis Court Project in the amount of \$27,630.

Agenda Item # 9
Prepared By:
Junior Engineer
Approved By:
Public Works Director
Submitted By:
City Manager

EXECUTIVE SUMMARY:

This project provides court repairs, resurfacing, application of color finish and line painting to the Oak Creek Park Tennis Court. The original bid of the project was to repair both the basketball and tennis court at Oak Creek Park on May 16, 2002 but the original bid results were 250% over our estimate. The rebid scope of work was reduced to meet our budget and the following is the result of the bid opening.

The bid opening was held on September 24, 2002 and the bids received are as listed below:

Vintage Contractors, Inc. \$27,630.00 ESR Construction, Inc. \$45,172.00

The low bid by Vintage Contractors, Inc. falls within our budget of \$28,000. Public Works has used Vintage Contractors and found them to produce quality work. Staff recommends awarding this contract to Vintage Contractors, Inc.

This work will begin approximately in March 2003 to miss the winter rains, and will be completed by April 2003.

FISCAL IMPACT:

The total contract cost for this project is \$30,393 which includes a 10% contingency of \$2,763 and will be funded by the 2002-03 Lighting and Landscape fund balance within the Oak Creek sub-area of our Lighting and Landscape maintenance District.

	ITEM#_	10	
Submitted for	Approval:	11/06/02	

CITY OF MORGAN HILL SPECIAL CITY COUNCIL MEETING MINUTES - OCTOBER 23, 2002

CALL TO ORDER

Mayor Pro Tem Carr called the meeting to order at 6:05 p.m.

ROLL CALL ATTENDANCE

Present: Mayor Pro Tem Carr, Council Members Tate, Sellers

Arriving Late: Council Member Chang

Absent: Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council Action

CLOSED SESSIONS:

Mayor Pro Tem Carr announced the following closed session items:

1.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION/LABOR NEGOTIATIONS

Authority: Government Code sections 54957 & 54957.6

Public Employee Performance Evaluation/Labor Negotiations

Attendees: City Council, City Attorney (unrepresented

employee)

Negotiators: Mayor Kennedy and Mayor Pro Tempore Carr

City of Morgan Hill Special City Council Meeting October 23, 2002 - Minutes Page -2-

Mayor Pro Tem Carr adjourned the meeting to closed session at 6:06 p.m.

RECONVENE

The meeting reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor Pro Tem Carr announced that there was no reportable action taken in closed session.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:59 p.m.

MINUTES RECORDED AND PREPARED BY

MOIRA MALONE, Deputy Clerk



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: November 6, 2002

AQUATIC COMPLEX PROJECT MANAGEMENT SERVICES

RECOMMENDED ACTION(S):

Authorize payment of \$11,245 to Richard Sampson Associates Inc. for project management services rendered for the Aquatics Complex Project.

Agenda l	tem # 11
Prepared	By:
Recreation	on &
Commun	ity Services
Manager	•
Submitte	d By:

Executive Director

EXECUTIVE SUMMARY:

Staff has been utilizing the services of Richard Sampson Associates Inc. to assist the Agency in developing the work plan, project schedule and project budget related to the Aquatic Complex Master Plan and to assist the Agency in negotiating an agreement with ELS for architectural services for the design and construction of Phase 1 of this project in the time frame the Agency directed.

Richard Sampson Associates has submitted the attached invoice of \$11,245 for their services during the month of October 2002. Staff requests authorization to make payment of this amount.

FISCAL IMPACT:

These services are included in the FY 2002/2003 capital improvement program budget in project number 115000-6200 for professional services.



REDEVELOPMENT AGENCY

MEETING DATE: November 6, 2002

LEED RATING ARCHITECTURAL SERVICES FOR AQUATICS COMPLEX

RECOMMENDED ACTION(S): Direct staff to proceed with the LEED Rating Documentation.

Agenda Item # 12

Prepared By:

Recreation & Community Services Manager

Submitted By:

Executive Manager

EXECUTIVE SUMMARY:

The Agency has made energy efficient and "green building" a priority with all of the public projects it supports. ELS have demonstrated that they are capable of providing the design features, including solar water heating systems, for the aquatics complex to comply with "green building" concepts. Funding has been approved to cover the expenses of providing for LEED certification within the ELS contract. Staff wants to bring to the Agency's attention that the design fees for LEED Rating Documentation is \$98,400. ELS notes in their proposal that the design fees for LEED rating do not include project registration or certification costs with the US Green Building Council. Design documentation effort is similar, whether for a Certified Level rating or Gold Level. The facility would still meet green standards and incorporate solar heating systems, but the process to be LEED certified is the added cost.

Staff would like to confirm with the Agency that LEED certification remains a priority and the cost of \$98,400 is consistent with the Agency goals. This cost has been approved with the overall ELS contract.

FISCAL IMPACT:

No budget adjustment necessary as this cost has been approved in the overall ELS contract. If the Redevelopment Agency Board determines that it is not a priority to become Leed Certified it would result in a cost savings of \$98,400 which could be applied towards the overall project instead.

From: "Geno Yun" <GYun@elsarch.com>

To: "Julie Spier" <spierj@ch.morgan-hill.ca.gov>

Date: 10/31/02 12:05PM

Subject: Morgan Hill Aquatics - "LEED vs. Green"

Hi Julie:

The matter of defining a green project does not come with a simple explanation. There are many factors to consider, with endless possibilities of combined features. By simply putting solar hot water panels on the roof of the building, one may say that the project is green by utilizing renewable energy sources for heating the pools. But this is a long way from becoming a LEED certified project. LEED certification (governed by the U.S. Green Building Council), and to a more extreme extent, LEED "gold" certification, requires numerous energy, environmental and design feature to be implemented, documented and commissioned in order to receive such a distinction. Why bother? Because it is currently the standard by which most communities, institutions and agencies quantify meeting environmental goals.

For our project, we have been directed to design the aquatics complex with sustainability in mind. We can design the project with as much energy efficient amenities as possible, without increasing the cost or additional fee. This may not be enough to achieve a minimum level of LEED certification, but it will be an improvement over conventional buildings of the same type. Or we can design a high performance building that includes many energy saving and environmentally sustainable features as practical, with increased cost to the construction and some additional design fee, but save the documentation costs for the LEED certification. This is better, but you would not be able to hold a certificate up to quantify the "greeness" of the project. Obviously, a high performance building with "papers" would be the ultimate goal.

Hope this helps.

Regards, Geno

CITY OF MORGAN HILL JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES - OCTOBER 16, 2002

CALL TO ORDER

Mayor Pro Tempore/Agency Member Carr called the meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Present: Mayor Pro Tempore/Agency Member Carr, Council/Agency Members Chang,

Sellers, Tate

Absent: Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

<u>CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:</u> CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential

case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the

southwesterly side of Cochrane Road (St. Louise Hospital

property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F.

Gale Conner, special counsel; Rutan & Tucker, special

counsel

Case Name: San Jose Christian College v. City of Morgan Hill Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore/Agency Member Carr opened the closed session items to public comment. No comments being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore/Agency Member Carr adjourned the meeting to closed session at 6:31 p.m.

RECONVENE

Mayor Pro Tempore/Agency Member Carr reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor Pro Tempore/Agency Member Carr announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Pro Tempore/Agency Member Carr, Bill Brown, President of the Morgan Hill Community Health Foundation, led the Pledge of Allegiance.

CITY MANAGER'S REPORT

City Manager Tewes indicated that later, on in the agenda, he would have a report on medical services. In light of this report, he did not have a City Manager's report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter stated that she did not have a City Attorney's report to present this evening other than to indicate that she distributed the Monthly Litigation Summery Report this evening.

OTHER REPORTS

City Treasurer Roorda presented a quarterly report from the Finance and Audit Committee. He addressed the City's general fund revenue for 2000-2003 via a power point graphical presentation.

Council Member Sellers stated that it was important to point out that after the fourth month for each of the previous years, a significant uptake occurred. If you take a look at where the City is now, one may have cause for concern because of the significant gap between the revenue and budget. He said that this trend goes off every year with the first quarter reporting.

Mr. Roorda indicated that it is early in the year and that the City is not off its current budget trends and that there is no cause for particular alarm at this time.

CITY COUNCIL REPORT

Mayor Pro Tempore Carr addressed the following outside committee assignments: 1) City-School Liaison Committee. He indicated that on Friday, October 19 at 4:00 p.m., the long awaited ground

City of Morgan Hill Special and Regular City Council and Special Redevelopment Agency Meeting Minutes - October 16, 2002 Page - 3 -

breaking for the new Sobrato High School will take place. 2) Measure P Update Committee, a 19member task force, is moving forward with looking at different options for updating the City's Residential Growth Control System Ordinance. With the diversity of the task force and set of views, he said that a lot of good ideas have been placed on the table about where the City may want to head. The Committee is starting to thin out different ideas that individuals have raised. He invited the community to contact City Hall if they are interested in the meeting schedule and to let the Committee know what they think about residential growth in Morgan Hill. 3) Housing Community Development Committee, a county-wide committee for cities that receive Community Development Block Grant (CDBG) block grant funds. He indicated that at one of the last meetings, committee members asked staff from the County to return with a report on how CDBG dollars have been spent over the years. County staff returned with the fact that the City of Morgan Hill is the only city that consistently uses these funds. He noted that most other cities roll their funds and are not providing the services that the City of Morgan Hill provides to its citizens with the use of these dollars. He requested that County staff go back to see why other cities are not using CDBG funds and that if cities are not going to be using the dollars, the funds should go back into the pool. This would allow cities like Morgan Hill who are providing the services more dollars verus cities who are bank rolling over \$1/2 million in funds. He said that it is difficult for the City Council not to fill all of the CDBG requests because it does not have enough funds to fill the requests.

Mayor Pro Tempore Carr recognized City Manager Tewes for his 30-years of public service, indicating that an award was to be presented at the annual International City Managers Association to the City Manager, noting that City Manager missed the award's banquet in order to attend the October 2, 2002 Council meeting.

PUBLIC COMMENT

Mayor Pro Tempore/Agency Member Carr opened the floor to comments for items not appearing on this evening's agenda.

Council Member Chang thanked the Dayworker Committee Members for the successful fundraising event that occurred on Saturday, October 19, 2002, especially all Council Members who helped make the event a success. She also thanked City Manager Tewes and Assistant to the City Manager Eulo for their assistance.

No further comments were offered.

CONSENT CALENDAR:

Council Member Chang requested that item number 13 be removed from the Consent Calendar.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, approved Consent Items 1-12 and 14-20, as follows:

1. <u>SEPTEMBER 2002 FINANCE AND INVESTMENT REPORT</u> *Action: Accepted and Filed Report.*

2. <u>AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT - ALCINI PARTNERSHIP</u>

<u>Action: Approved</u> Amendment to Subdivision Improvement Agreement.

3. AGREEMENT WITH THE STROMBOTNE LAW FIRM

<u>Action: Authorized</u> the City Manager to Execute the Consultant Agreement with the Strombotne Law Firm.

4. <u>APPROPRIATION OF FUNDS FOR BUTTERFIELD BOULEVARD SEWER</u> TRUNK, BETWEEN MAIN AVENUE AND SAN PEDRO AVENUE

<u>Action</u>: 1) <u>Appropriated</u> \$530,000 from the Unappropriated Sewer Impact Fee Fund (641) to Construct the Butterfield Sewer Trunk, between Main and San Pedro Avenues; and 2) <u>Directed</u> Staff to Prepare Plans and Specifications for Public Bidding.

5. <u>AMEND PROFESSIONAL SERVICES CONTRACT FOR TRAFFIC SIGNAL DESIGN AT THE TENNANT AVENUE NORTHBOUND 101 OFF-RAMP INTERSECTION</u>

<u>Action: Authorized</u> the City Manager to Execute an Amendment to the Existing Professional Services Agreement with Higgins Associates for Traffic Signal Design Services for the Tennant Avenue Northbound 101 off-ramp Intersection in the Amount of \$7,266, Subject to City Attorney Review and Approval. The Total Amended Professional Services Agreement Shall Not Exceed \$42,266.

6. FINAL MAP ACCEPTANCE FOR MISSION RANCH PH. V (TRACT 9423)

<u>Action:</u> 1) <u>Approved</u> the Final Map, Subdivision Agreement and Improvement Plans; 2) <u>Authorized</u> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) <u>Authorized</u> the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

7. <u>APPROVE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND</u> ANNUAL GOAL

<u>Action</u>: 1) <u>Approved</u> the City's Disadvantaged Business Enterprise (DBE) Program and Annual Overall DBE Goal of 6.7% for the Federal Fiscal Year 2002/2003, Beginning on October 1, 2002 and Ending on September 20, 2003; and 2) <u>Authorized</u> the City Manager, by Adoption of the Council Report, to Sign the Final DBE Program and Submit It to Caltrans on Behalf of the City.

8. <u>AMEND PROFESSIONAL SERVICES CONTRACT WITH KORVE ENGINEERING FOR TECHNICAL SUPPORT FOR FUTURE MADRONE PARKWAY RAIL CROSSING</u>

<u>Action: Authorized</u> the City Manager to Execute an Amendment to the Existing Professional Services Agreement with Korve Engineering for Technical Support for the Future Madrone Parkway Rail Crossing, in an Amount Not to Exceed \$16,000, Subject to City Attorney Review and Approval.

9. <u>FINAL MAP ACCEPTANCE FOR COYOTE ESTATES PHASE VI (TRACT 9400)</u>
Action: 1) Approved the Final Map, Subdivision Agreement and Improvement Plans; 2)

<u>Authorized</u> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) <u>Authorized</u> the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

- 10. <u>COMMUNITY AND CULTURAL CENTER PROJECT SEPTEMBER</u>
 <u>CONSTRUCTION PROGRESS REPORT</u>

 Action: Information Only.
- 11. <u>SUBDIVISION APPLICATION SD 02-05: SUNNYSIDE-QUAIL CREEK</u>
 <u>Action: No Action Taken</u>, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.
- 12. MEETING START TIMES FOR CITY COUNCIL, REDEVELOPMENT AGENCY
 AND FINANCE & AUDIT COMMITTEE

<u>Action: Directed</u> the City Clerk to Amend Council Policy 97-01, Section 5.1D and E as Recommended by Mayor Kennedy.

- 14. MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 12, 2002

 Action: Approved the minutes as written.
- 15. MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 13, 2002

 Action: Approved the minutes as written.
- 16. MINUTES FOR JOINT SPECIAL CITY COUNCIL, ARCHITECTURAL & SITE REVIEW BOARD, BICYCLE & TRAILS ADVISORY COMMITTEE, LIBRARY COMMISSION, CORPORATION YARD COMMISSION, PERSONNEL COMMISSION, PARKS & RECREATION COMMISSION, PLANNING COMMISSION, SENIOR ADVISORY COMMITTEE AND YOUTH ADVISORY COMMITTEE MINUTES OF SEPTEMBER 21, 2002

 Action: Approved the minutes as written.
- 17. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002

 Action: Approved the minutes as written.
- 18. <u>MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002</u>
 Action: Approved the minutes as written.
- 19. MINUTES FOR SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 26, 2002

 Action: Approved the minutes as written.
- 20. MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF OCTOBER 10, 2002

 Action: Approved the minutes as written.

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13. REQUEST FROM THE MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) FOR THE APPROVAL OF THE MORGAN HILL COMMUNITY ADVISORY BOARD (MHCAB) OF SAINT LOUISE REGIONAL HOSPITAL

City Manager Tewes presented the staff report, indicating that a request has been received from the Morgan Hill Community Health Foundation to approve a charge statement and an appointment process for a community advisory board that would be advisory to the Saint Louise Regional Hospital. He said that the notion of a community advisory board was first introduced a few months ago when the City Council and St. Louise reached an agreement relating to the reopening of the medical office building and the establishment of a community advisory board. Before the Council, is a request from the Foundation for support of the concept and the appointment process as outlined in their letter.

Council Member Chang said that before Mayor Kennedy left for Italy, she spoke with him via phone relating to the medical services issues. She advised him that there were two items on the agenda relating to the current status report and the request to form a community advisory committee. She asked Mayor Kennedy if he would like the Council to review this item or defer discussion until he returned from Italy. It was her recollection that Mayor Kennedy requested that this item be deferred until his return. She indicated that she spoke with the Morgan Hill Community Health Foundation yesterday and today and that Foundation members have indicated that Mayor Kennedy has recommended that this item move forward. She requested Council Member Seller's clarification on Mayor Kennedy's instructions.

Council Member Sellers stated that he serves on the Foundation Board along with Mayor Kennedy and that Council Member Chang serves as an alternate. He said that at the meeting where the discussion item came up, Mayor Kennedy and he were in attendance to discuss the item. He said that there are several reasons to proceed with the item this evening and that it was his recollection that Mayor Kennedy concurred with proceeding with the item. He recommended that the Council proceed with the item this evening.

Action:

On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, <u>Approved</u> MHCHF's Request for the Establishment of the MHCAB of Saint Louise Regional Hospital.

CONSENT CALENDAR ITEMS 21 - 24:

Council Member Chang indicated that she would be recusing herself from agenda item number 21 and Mayor Pro Tempore Carr indicated that he would be abstaining from agenda item 24 as he was not in attendance at said meeting.

21. <u>AWARD CONTRACT FOR CONSTRUCTION OF THE WELL ABANDONMENT PROJECT</u>

<u>Action:</u> On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on s 3-0 vote with Council Member Chang recusing herself and Mayor

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Kennedy absent, <u>Awarded</u> Contract to Maggiora Bros. Drilling, Inc. for Construction of the Well Abandonment Project in the Amount of \$31,175.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, <u>Approved</u> consent calendar items 22 and 23 as follows:

- 22. <u>MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 22, 2002</u> *Action: Approved the minutes as written.*
- 23. <u>MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 23, 2002</u> *Action: Approved the minutes as written.*
- 24. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF OCTOBER 2, 2002

Action:

On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 3-0-1 vote with Mayor Pro Tempore Carr abstaining and Mayor Kennedy absent, <u>Approved</u> the minutes as written.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action:

On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Agency Member Carr, the City Council/Agency Board, on a 4-0 vote with Mayor/Chairman Kennedy absent, <u>Approved</u> Consent Item 25 as follows:

25. MINUTES FOR JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY
AND SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002
Action: Approved the minutes as written.

CONSENT CALENDAR:

Mayor Pro Tempore/Agency Member Carr indicated that he would be abstaining from agenda item 26 as he was not present at said meeting.

Action:

On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board, on a 3-0-1 vote with Mayor Pro Tempore/Agency Member Carr abstaining and Mayor/Chairman Kennedy absent, <u>Approved</u> consent calendar item 26 as follows:

26. MINUTES FOR JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF OCTOBER 2, 2002 Action: Approved the minutes as written.

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Redevelopment Agency Action

Action:

On a motion by Agency Member Tate and seconded by Agency Member Carr, the Agency Board, on a 4-0 vote with Chairman Kennedy absent, <u>Approved</u> Consent Calendar Items 27 and 28 as follows:

27. <u>ACCEPT DONATED UTILITY VEHICLE FOR THE COMMUNITY AND</u> CULTURAL CENTER

<u>Action:</u> <u>Accepted</u> the Donation of an Electric Utility Vehicle from Global Electric Motors for Use at the Community and Cultural Center.

28. MORGAN HILL PLAZA RE-USE STRATEGY (CONLEY CONSULTING GROUP)

<u>Action: Authorized</u> the Executive Director to Execute a Contract with Conley Consulting Group for the Morgan Hill Plaza Re-use Strategy, in an Amount Not to Exceed \$46,220, Conditioned Upon the Approval of Agency Special Counsel.

City Council Action

Based on Council Policy, the Council cannot consider public hearing items until 7:30 p.m. Therefore, the Council agreed to hear item 32 at this time.

OTHER BUSINESS

32. STATUS REPORT ON MEDICAL SERVICES

City Manager Tewes presented the staff report, indicating that the issue of how to improve and provide medical services in the community has been an important topic for the Council the past several years. He noted that in April 2000, the Council adopted a set of medical services objectives that talk about preserving the former Saint Louise facility for future reconversion to an acute care hospital. The Council identified a series of other medical services objectives, including important things such as making sure that the city has enough primary care physicians in town. After a series of studies and reports, including a report from a Blue Ribbon Committee of citizens, the Council initiated the formation of the Morgan Hill Community Health Foundation and charged the Foundation with preparation of a plan on how to accomplish/implement the objectives. He said that it is expected that the Foundation would present its report and plan to the Council in November. Even before this time, the Council requested a status report on medical services and the prospects for medical services in the community.

City Manager Tewes informed the City Council that over the past weeks, he has had the opportunity to speak with representatives of the Foundation and their executive director as well as with representatives from St. Louise Regional Hospital, Kaiser Permanente, San Jose Medical Group and other potential providers. He said that the report presented to the Council this evening conveys good work from John Ray, executive director of the Foundation, outlining what each of the issues are and what is taking place with respect to these.

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City Manager Tewes said that an important concern of the community is the announced bankruptcy and closure of the facility operated by the San Jose Medical Group on Juan Hernandez Drive. He indicated that the CEO of the San Jose Medical Group has expressed to him their plans which include informing all patients whose doctors are affected by this closure of substitute physicians to whom they will be referred. He said that the San Jose Medical Group is making arrangements to ensure that those patients who are covered by insurance will be covered by another group. This may mean, in some instances, that individuals will have to see their physicians elsewhere in South County and not in Morgan Hill.

City Manager Tewes indicated that he has spoken with representatives from Kaiser Permanente who indicates that they have approximately 16,300 members who live in Morgan Hill and that they are looking for ways to expand their presence in Morgan Hill. However, they have not yet determined how to do so and that they would be evaluating this in the upcoming months.

City Manager Tewes stated that St. Louise Hospital representatives are engaging in a variety of efforts to expand medical services in the community. This would include reopening of the medical office building at the former St. Louise campus in Morgan Hill. The Foundation continues its efforts to attract physicians from outside the community and to fill the medical office building. With the loss of the San Jose Medical Group facility, there would be no after hours urgent care in the community. He said that this is a concern to the Foundation and to other medical providers. He said that the Foundation is working with a number of potential providers of urgent care services who might locate at the medical office building or other facilities in the community. He said that the Council would learn more when the Foundation returns later of November. He indicated that representatives of the Board and the executive director were in attendance should the Council have questions of them.

Bill Brown indicated that the Board would present a formal report upon Mayor Kennedy's return. He said that the efforts of the Foundation's executive director are in front of the Council and are self explanatory.

John Ray walked the Council and public through a matrix of the Foundation's evaluation of recent medical developments, their implications/effects, issues that pertain to how the Foundation is approaching resolution to these problems, and current initiatives taking place. He indicated that the Foundation has been pursuing a plan to reestablish healthcare services in Morgan Hill. He stated that the Daughters of Charity retook control of the hospital facility and gave the Foundation a partner to work with. He said that the Foundation has worked with the Daughters of Charity to open medical office buildings. The Foundation has recruited a couple of new physicians. He indicated that the San Jose Medical Group recently made decisions to close the urgent care clinic and their pending closure of their primary care clinic. He indicated that on these two issues, St. Louise Regional Hospital is prohibited, by law, from financially supporting physicians who are currently members of its medical staff. If a community need can be demonstrated, they can spend hospital resources to bring new physicians to the community. However, the financial relationships between hospitals and physicians are severely circumscribed and regulated under the Federal Fraud and Abuse regulations to prevent abusive behavior in terms of financial relationships between doctors and hospitals. Therefore, the hospital cannot do anything to support the current San Jose Medical Group physicians as they are members of the hospital medical staff. He said that the Foundation has

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been actively working with several physician organizations who have expressed an interest and intention of establishing an urgent care operation in the community. He indicated that the Foundation is currently working with several physician organizations in putting together plans in a concrete form to bring before the Council. However, it may be possible that the plans may not be concrete as a lot of issues are under negotiations. He indicated that the recruitment of physicians is an expensive undertaking. Physicians are looking for assistance in establishing their practices as well as income guarantees for a year. He said that the Foundation does not have the financial resources to make the kinds of offers physicians are looking for. The Foundation is still hoping that they can get the physicians to agree to forebear their decisions until it can raise further funds to retain them in the community. If not, the Foundation would increase its efforts to recruit new physicians in the community.

Council Member Chang stated that she was interested in the status of patients with the San Jose Medical Group. She inquired as to Mr. Ray's evaluation with this regard.

Mr. Ray said that one physician has decided to return to former employment and that the status of the other physicians is unclear. It is his understanding that one physician has made a decision to join a practice in San Jose but that he does not have confirmation of this fact. He is hoping to meet with other physicians to see if they have flexibility and the ability to put off their professional decisions while the Foundation can develop the funds to retain them in the community. However, he was not sure if he would be successful in this effort as the physicians have families and mortgages to pay.

Council Member Tate noted that Mr. Ray has spoken about the need to put together an economic assistance retention package and that the Foundation is trying to do this through fundraising efforts. He inquired how citizens can be encouraged to increase the user ship of an urgent care facility so that it can encourage its existence in the community?

Mr. Ray responded that this is the case of "use it or lose it." He said that to a certain extent, Saint Louise Hospital closed for this reason. He encouraged every citizen who has insurance to use local resources or the community won't have them. He indicated that the City has two new OB-GYN physicians who have located to Morgan Hill and encouraged citizens to patronize them. The Foundation is working on both long term and short term medical service needs, noting that the major impediment to rapid movement is funding.

Mr. Brown stated that last time he was before the Council, he promised not to come back before the Council to request money until the Foundation was able to raise funds from the public. He said that he was not before the Council asking for money. However, everyone is surprised by the closure of the San Jose Medical Center. He said that this has changed the formula and changed what the Foundation is capable of doing. The problem that the Foundation is facing is that it does not have the funds to help alleviate this situation. He said that the Foundation is out actively attempting to raise funds and that without these funds, the Foundation cannot bring doctors to Morgan Hill nor provide the leadership for the Foundation that would bring the doctors here.

Mayor Pro Tempore Carr indicated that the Foundation would be before the Council next month with a comprehensive and complete report, recommending a long term strategy for the Council to have a dialogue about and be able to move forward with the strategy.

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Mr. Ray said that the strategy would be the work of the Joint Planning Task Force that would present a plan of the Foundation and St. Louise Regional Hospital. He clarified that this would not be the entire Foundation Plan but is the centerpiece because it has to do with the very important facility and its future use and the rebuilding of a medical staff for this facility. He said that the Foundation intends to have a plan that looks to the long term and provides the context for the joint plan with St. Louise. It is his intention to have a plan that would describe the longer term vision of the Foundation and lays out the strategies to achieve the longer term vision.

Joe Mueller, member of the Foundation Board, stated that this is a critical period of the year as October is the month that individuals select their medical health plans. He felt that it was crucial for citizens to select plans that use physicians in Morgan Hill and that citizens use the St. Louise Regional Hospital because it is a use it or lose it situation. He said that it is a plea to citizens and employers to make sure that when health plans are being put together that it considers bringing forward medical plans to employees that would allow use of physicians in Morgan Hill and St. Louise Regional Hospital.

City Manager Tewes indicated that he spoke to Mr. Terry Austin with Kaiser Permanente who is in charge of this region who has indicated that they have 16,300 Kaiser members who live in Morgan Hill. Mr. Austin indicates that Kaiser would like to expand its presence in Morgan Hill but that they have not yet determined how to do this and did not expect to do so in the next month or two.

Council Member Sellers felt that this number would be composed of the greater Morgan Hill area otherwise, they would be at odds with the 30% enrollment. He requested that this number be verified as the Kaiser membership is almost 50% of the Morgan Hill population.

Council Member Chang said that she received a call from a citizen who was ill and unhappy about having to take her husband to urgent care twice today, even though she has cancer and is undertaking chemo therapy herself. She inquired whether something can be done to assist individuals like this? She asked how it can be ensured that there would be a smooth transition so that by the time the San Jose Medical Group facility is closed, citizens have a place to go.

Mr. Ray stated that he also has had conversations with Morgan Hill residents who are concerned about the loss of their physicians with the closure and transition. He said that the Foundation is not structurally in a position to help manage the transfers from the San Jose Medical Group. He said that the Foundation can monitor the situation but that the Foundation does not have the resources, money or staff to actively take on the task of ensuring patient by patient transition. He said that there are process issues involved that the Foundation is not privileged to. He stated that there is the difficult issue of the availability of other physicians who can take on patients and their insurance providers.

Mayor Pro Tempore Carr noted that the Foundation indicated that it is working with the physicians to see if there is a way the community can retain doctors in Morgan Hill.

Mr. Brown said that the Foundation employed Mr. Ray on a 3-day a week basis to assist in this effort. Because of finances, the Foundation has had to cut back his employment to 1-day a week. He said that Mr. Ray is spending more than this amount of time assisting the Foundation but that

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this is not enough time to accomplish what needs to be done. While the Foundation is not asking the Council for money, he said that the only thing that can help the Foundation is the release of the balance of the funds to the Foundation so that it can continue its work.

Council Member Chang requested that the Foundation assist the City with the critical medical situation. She said that she would assist with fundraising efforts for this endeavor as physicians are needed in Morgan Hill.

Mayor Pro Tempore Carr noted that next month, the Council would be presented with a complete report and a recommended long term strategy. This would allow the Council to have a greater discussion about the issue

Mr. Brown said that the plan may not be sufficient to meet the immediate needs that the community has. As the Foundation will not be able to present the plan for a month and many decisions are being made during this period of time that would impact the health care in Morgan Hill, he felt that the Council needs to step back and take a look at what it intends to do. If the Foundation comes to the Council with a plan 30-days from now, it would be too late. He said that the steps need to be taken immediately with respect to primary care physicians in order to be able to make offers to physicians to bring them into the community and into the medical office building so that patients can be assigned to doctors who will practice in Morgan Hill.

Mr. Ray said that St. Louise Hospital is in the final stages of finalizing a recruitment agreement with another primary care physician. He noted that the Council approved the release of funding to augment the St. Louise Regional Hospital's physician recruitment efforts. He said that the Foundation would provide support to the Gilpins and to this physician, assuming that everything goes as planned. He said that the only way to remedy the shortage of physicians is to be able to offer attractive packages to the physicians that are currently practicing at the San Jose Medical Group Clinic to keep them in the community. He said that these physicians have families to support and that they are in demand. He said that these physicians are making decisions about alternative places that they can go in order to continue their income.

Council Member Chang inquired as to the feasibility of requesting that the San Jose Medical Group delay the closure of their facility and request that some doctors stay on until the new physician come on board.

Mr. Ray indicated that he would be looking to meet with all of the physicians to see if they would be willing to take a risk on their professional and personal decision making in the interest of continuity care for their patients. He did not know what their responses would be but that it would be his intent to buy the City some time. He said that the Foundation would be launching focused fundraising campaigns for both urgent care and the retention/recruitment of primary care physicians to address the short term problems.

Mr. Brown appealed to the residents of Morgan Hill by stating that the Foundation is a 501c3 non profit organization and that contributions to the Foundation are deductible for income tax purposes. Donations would be appreciated and would be used to benefit medical care in the community.

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Council Member Sellers said that this is not an isolated incident and that the City Council is not suddenly taking on this issue. He said that the Council has been dealing with this issue for the past four years. He stated that he appreciated that individuals are angry about the medical care issue. He felt that everyone needs to keep medical services in perspective and understand what the City Council is capable of doing and what is beyond their capability. He stated that this is a large issue, an issue that is not traditionally taken on by cities. He said that Morgan Hill is a small city and that a city 30 times the size of Morgan Hill to north cannot prevent the closure of one of their major facilities. He said that it is difficult to expect that Morgan Hill can suddenly solve its healthcare and medical services deficiencies. He felt that Morgan Hill has done a lot and that this needs to be acknowledged (e.g., fought efforts to eliminate facilities, helped to reverse this trend, set a course on developing the Community Health Foundation in bringing on experts, etc.). He felt that the recent actions may offer the City opportunities to provide greater health services in the long term. He said that the City is a position where there are fewer doctors in place versus 30 years ago and that this is an intolerable situation. He did not believe that the Council or anyone in the community feels that this is an acceptable situation. He felt that it was important that the Council consider some interim steps to expedite funding resources and that this should be agendized for a subsequent meeting for further discussion. He appreciated the frustration that individuals are having and appreciated the efforts on the part of the Foundation board members, Council members and other members in the community. He indicated that reestablishment of medical services in the community would take a while.

Mayor Pro Tempore Carr opened the floor to public comment.

Anita DuJardin, 16860 Sundance Drive, expressed concern about the state of medical services in Morgan Hill. She indicated that Kaiser Permanente is her healthcare provider but that she has had occasions to use St. Louise Hospital when it was in Morgan Hill. She has relatives that visit from out of state who often have a need for healthcare serves and cannot use Kaiser. She worries about citizens who no longer have medical services available in Morgan Hill. She said that it was hard for her to understand why a city of at least 30,000 citizens is not able to support medical services of any kind, noting that she grew up in a small town in the Midwest of approximately 8,000 individuals which had a hospital with a fully staffed emergency room 24-hours a day, 365 days a year. If a community of this size can keep a hospital going, she felt that there must be some way that a community, the size of Morgan Hill, can figure out how it can recruit and retain doctors, and medical services, including a hospital. She said that urgent care is vital to a community.

Council Member Tate appreciated Council Member Sellers' comments and concurred with his comments. He said that the community will need to help the city to recruit physicians and to participate in the Foundation's fundraising efforts in order to make this work. However, if no one participates and utilizes the medical facilities, it would not work. He agreed with the speaker that it seems obvious that it should be easy to sustain medical services anywhere, noting that the economic reality is that this will not succeed unless the community makes it work. He felt that the Council needs to do its part and requested that the community get involved as well.

Council Member Chang said that the current situation is that the San Jose Medical Group will be leaving the community in approximately 1½ months. She recommended that the Foundation look into a temporary solution such as requesting that the physicians extend their stay a couple of months

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while other plans are worked out.

Mr. Brown said that the San Jose Medical Group is operating under bankruptcy rules. He did not believe that they would be allowed to continue to do something that loses money. He said that the Foundation would discuss extending medical services with the current San Jose Medical Group physicians. However, he noted that a facility would need to be provided in order to get physicians into other suites at the medical office building and that this would take money.

Mr. Ray indicated that it is expensive to provide temporary facilities to physicians. He said that St. Louise Hospital does not employee physicians. The physicians are independent processionals who are members of a voluntary medical staff at St. Louise. He indicated that the Foundation can approach St. Louise and request that doctors be loaned. He stated that the Foundation is talking with St. Louise's medical staff about establishing practices in Morgan Hill. It is his hope that discussions have gone far enough that the Foundation will have concrete proposals in addition to a report to present to the Council in November. He said that he appreciated Council Member Chang's creative thinking about trying to solve a near term problem and that the Foundation is creatively thinking about how to do so as well.

Mr. Mueller said that there is a way to solve medical problems and that it starts with dollars. He said that the City needs to determine how much it is willing to spend for a short term solution and how much pain the City and the communities want to go through to get through this crises and into a long term solution. He said that it may not be realistic to retain the current physicians and that the City may need to recruit new doctors. He said that it takes time to convert group practices into individual practices. He felt that it would take significant dollars to achieve short term solutions that the Foundation does not have at this time. It will take corporations, other individuals or the City Council to provide significant financial support to accomplish short term solutions.

Mayor Pro Tempore Carr said that the Council is interested in creative ideas to solve the current medical situation. He acknowledged that this is not a situation that it can solve on its own and that it would take the involvement of the community for both the long term and short term salvation of medical services in Morgan Hill.

Action: No action taken, Information Only.

PUBLIC HEARINGS:

Mayor Pro Tempore Carr indicated that items 29-31 are public hearing items of which the Council would not be taking action on this evening. He said that the Council will open each item for public comment and that each item would be continued to November 6, 2002, each being appropriately noticed for that meeting.

29. <u>DEVELOPMENT AGREEMENT AMENDMENT DA 02-04: SUNNYSIDE-QUAIL</u> CREEK

Planning Manager Rowe presented the staff report. He recommended that the public hearing be continued to November 6, 2002 so that staff can provide a new public notice for the November 6,

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2002 meeting.

Mayor Pro Tempore Carr opened the public hearing. No comments were offered.

<u>Action:</u> On a motion by Council Member Tate and seconded by Council Member Sellers, the

City Council, on a 4-0 vote with Mayor Kennedy absent, Continued the public

hearing to November 6, 2002.

30. GENERAL PLAN AMENDMENT APPLICATION, GPA 02-02: WATSONVILLE-CITY OF MORGAN HILL RDA & ZONING AMENDMENT APPLICATION ZA-02-06: WATSONVILLE-CITY OF MORGAN HILL RDA

Planning Manager Rowe presented the staff report. He recommended that the City Council continue the public hearing to November 6, 2002 following receipt of public testimony.

Mayor Pro Tempore Carr opened the public hearing.

Stacey Thornburg, 275 Via Naretto, indicated that she would be unable to attend the November 6, 2002 meeting due to training. She stated that adjacent homeowners met with representatives of the builder last night. She said that when she first purchased her home in the subdivision, homeowners were promised a city park. She indicated that all 24-homeowners were under the assumption that a park would be built. It is now understood that a BMR-type housing project is being proposed which consists of 12 units on the 1.5 acre parcel, indicating that it was her belief that it was originally introduced as 7 units. She felt that 12 units are too many and expressed concern with the traffic flow that would be created, noting that a traffic problem already exists. She felt that the corner needs to be re cut to accommodate the visual situation to reduce accidents. She did not understand why the City is trying to create an entire program of BMR units as there are individuals who have a need for regular housing.

Action:

On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, <u>Continued</u> the public hearing to November 6, 2002.

31. OUT OF SERVICE AREA REQUEST, OSR-02-02: MANZANITA-MCLAREN

Planning Manager Rowe presented the staff report and requested that the public hearing be continued to November 6, 2002 following receipt of public testimony.

Mayor Pro Tempore Carr opened the public hearing. No comments were offered.

<u>Action:</u> On a motion by Council Member Tate and seconded by Council Member Sellers, the

City Council, on a 4-0 vote with Mayor Kennedy absent, **Continued** the public

hearing to November 6, 2002.

32. NOTICE OF PREPARATION FOR THE PROPOSED SANTA CLARA COUNTY COURT FACILITIES

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Planning Manager Rowe presented the staff report.

Council Member Sellers expressed concern with the design issues as they relate to the Environmental Impact Report (EIR). He recollected reading that the parking facility was slated to be adjacent to the railroad tracks with the thought that a nice building would be facing toward or on Butterfield Boulevard with the parking next to the railroad tracks. He said that this may be well and good unless one is located on the other side of the track, noting that the city's downtown is located on the other side of the tracks. He expressed concern that the courthouse facility would impact aesthetics, land use and planning, population and housing, and public services. He felt that it was important to look at the impacts in a comprehensive way. He noted that there is reference in the summary project purpose of the economic-social benefits to the community located in proximity to the downtown area. He felt that it was in congress to him that the county would locate a facility that would not only be aesthetically detrimental to the downtown area but would cut off the courthouse usage from the downtown. He requested that this mitigation be considered and that the County look at alternatives.

Council Member Tate stated that he was confused by the total project because the Council does not know what the total project is. If the County will be using a courthouse that precludes the use of space for police or fire facilities, he inquired how the project level EIR addresses what will end up being built?

Mr. Rowe stated that the EIR would look at two alternatives: 1) full use of the site by the County for court facilities; and 2) an alternative that would have a slightly smaller court facility, providing an acre or two of land to the City to build its facilities. He clarified that the report would include project alternatives as a requirement in terms of the content of the EIR. However, for the purposes of the impact analysis, staff recommended that the report look at an alternative scenario that would include a joint use of the site that would include City facilities as well as county facilities.

Council Member Chang said that staff advised her that based on the proposed size of the courthouse, the site can only accommodate a courthouse and a fire station.

Mr. Rowe stated that one of the possibilities being considered as part of the update to the Fire Master Plan is the fact that this site would be a good location for locating a third fire station. The site was also looked at as a possible location for a new police station. He said that it has been indicated that based on how this project evolves that it would be unlikely that there would be enough room to build a third fire station, new City police station and a county court facility on the combined site. However, there may be sufficient space to place a courthouse facility and a third fire station or city police station. He indicated that the Planning Commission is stating, in their comments, that the EIR should look at these possibilities and determine impacts.

Council Member Chang inquired whether the site is a good location for a third fire station?

Council Members Sellers and Tate both felt that the Butterfield site was an excellent one and that the preferred location for a third fire station is based on its centrality to the community.

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Mayor Pro Tempore Carr indicated that it was initially felt that adjoining the City's police station with the courthouse would result in possible cost savings in construction dollars. He felt that it was important for the Council to state this evening that the City wants to make sure that the EIR explores these scenarios. Doing so would not necessitate the City requesting that alternatives be considered at a later date.

Mr. Rowe indicated that when he prepared the report for the Council, he was not certain to what extent the City would be in a position to provide information to the environmental consultant to perform a project level environmental analysis. He has learned, since the writing of the report, that the City would be in a position to provide the information to the consultant. He did not believe that this would be an objection to the consultant as it would not delay their ability to proceed with the preparation of the draft EIR.

Mayor Pro Tempore Carr noted that the scope of the project has increased in terms of square footage of the facility and the acreage the County suggests that they need. He stated that he has been vocal about his opposition to the courthouse at this location but that he was not opposed to a courthouse in Morgan Hill. He said that since the time Board of Supervisor Gage sat down with the City and discussed an agreement on the project, the scope of the project has grown. This is a concern to him, noting that when he used to live in the neighborhood, his neighbors had a lot of concern about the location of the facility and its impact to the neighborhood. Now, with the scope of the project growing, he was afraid that neighborhood concerns may have grown as well. He felt that as changes occur, the County/City needs to make the project positive and not more impactful to neighborhoods.

Council Member Tate indicated that he shared Mayor Pro Tempore Carr's concern. He did not know how the County can increase its scope because the City's agreement with the County was for a six-acre site for a courthouse facility. Now, the County is increasing their project because there is additional land. He agreed that the courthouse structure would be more of an impact and would be taking away from the City's ability to place city services on the site. He did not believe that the City would be able to construct either the police or fire stations if the County continues to take additional land.

Council Member Sellers recalled that the County indicated that they needed 6+ acres and talked about a facility that would not require this amount of land. He did not believe that the City anticipated the facility to be as is being proposed. He inquired as to the County's intent for requesting a larger facility?

Mr. Rowe responded that he was not aware of the initial square footage proposed by the County. He indicated that the County is still evaluating the impacts of developing on the eight-acre site with two buildings totaling 79,000 square feet.

Director of Business Assistance and Housing Services Toy addressed the initial scope, indicating that a 60,000 square foot facility was proposed before conducting programming needs. The County felt that six acres would be able to accommodate a facility of this size. The County is still operating under the premise that six acres is sufficient but that they are now looking at an 80,000 square foot facility with six court rooms. He said that the County has conducted programming needs and that

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they realized that they need more space to accommodate all their services. He indicated that the County has not committed to how the increased project size would be financed, noting that originally, the project was estimated at \$23 million and that it is now estimated at \$40 million. He said that the Board has not made any commitments on their bond issue. The County is proceeding ahead as if they can fit 80,000 square feet on a 6+ acre parcel.

Mayor Pro Tempore Carr opened the floor to public comment.

Joe Mueller, speaking as a private citizen, stated that it was his understanding that the sheriff's substation would not be relocated to this site and would remain in San Martin. He felt that it was important to him that the City has an option to place the police station next to this facility if it can work. He noted that Morgan Hill citizens are already concerned with the impact of the courthouse facility. He felt that one way to alleviate some of the citizens' concerns is if the City's police department is headquartered as part of the complex. He recommended that the City use whatever leverage it can with the County to ensure that they understand that the courthouse facility is being sited in the middle of the community and that there are physical attributes on how it looks next to the downtown. There is also a need to reassure Morgan Hill citizens that they are going to be protected from detriments by having this type of facility in town. He said that the City is putting a significant amount of money into this project and felt that the City should receive some consideration for this.

Council Member Sellers stated that public safety is paramount to this project. He sees that there would be law enforcement personnel at the facility at all times of operation. He did not believe that there were substations at any of the other courthouse facilities but that there was sufficient law enforcement personnel. He felt that the Council needs to assure the community that the safety issues would be addressed.

Mayor Pro Tempore Carr said that he would like to know from the County the additional programming to be conducted in the additional 20,000 square feet. He wanted to know if it is a lot more than what was told the community and contained in the initial agreement with the County? He recommended that it be stressed to the County that the Council is interested in providing some of the city's public services on some of the acreage. As the scope of the project increases, he felt that the parking would also increase. He inquired whether parking would be gated parking and only available for courthouse usage during courthouse hours or would parking be available for downtown usage during non courthouse times or even during courthouse times. He stated that he did not want to see a chain-linked fence with barb wire around the parking lot and it sitting empty on weekends when the community can be using it.

Council Member Chang inquired whether the agreement with the County indicated the size of the building(s)?

City Manager Tewes responded that the Redevelopment Agency and the County have a contract that sets forth a series of steps, some of which have taken place and others are in the process. One of the steps was that the Agency would acquire a site for the courthouse. He indicated that the County has provided consent for the site that consists of approximately 7.8+ acres on Butterfield Boulevard, near Diana. He stated that from the onset, the County indicated its desire to have a courthouse of

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a certain size (e.g., 60,000 square feet). He indicated that the agreement does contemplate the possibility that the County could expand its facilities after proper environmental review without any impact to the City's financial obligation. There is a requirement in the contract that the City and the County engage in jointly master planning the site in order to accommodate certain important uses. One of these is access from the parking and public areas across the railroad tracks to the downtown. The other item called out in the agreement was to jointly master plan the site to accommodate the City's interest in a police station. He said that subsequently to the City entering into this contract, the City completed the Fire Master Plan and that other thoughts were indicated with regard to what public facilities were needed in the area. He stated that a fire station was not contemplated at the time of entering into a contract with the County. However, the contract does contemplate the possibility that the County could use the entire site that was acquired for their facilities subject to the Design Guidelines. He said that conditions were established by contract. Therefore, the design work being undertaken by the County has to be consistent with the Design Guidelines.

Action: By consensus, the City Council <u>Directed</u> Staff to Forward its comments on the Notice of Preparation to the County of Santa Clara GSA.

33. ANALYSIS FOR ALLOWING LARGE GROUP ASSEMBLY FACILITIES IN UNINCORPORATED AREAS OF SANTA CLARA COUNTY

Planning Manager Rowe presented the staff report.

Council Member Sellers referred to page 282 of the agenda packet, third bullet, "Consistency with Land Use Policies." He noted that the last sentence should read "<u>un</u>incorporated" area of Morgan Hill. He referred to page 9 of the County's report where they talk about shared parking and reuse for infill situations and how San Jose addressed/accommodated some of the large group facilities by allowing shared parking, reuse and infill. However, the Cities of Morgan Hill and Gilroy have not because the need has not been raised to date. He said that there would be parking relating issues that the Downtown Task Force is looking at.

In response to Council Member Sellers inquiry, Mr. Rowe indicated that the City does not have plans to reconsider some of its policies other than addressing it as part of the Downtown Plan.

Mayor Pro Tempore Carr requested that staff address some of the issues that resulted in a 5-2 Planning Commission recommendation to forward comments to the County.

Mr. Rowe indicated that overall, there was a complete consensus by the Planning Commission that certain types of facilities would be inappropriate. One Commissioner felt that recreational facilities, such as the soccer complex, would be appropriate to locate in the rural unincorporated areas. He said that another Commissioner felt that there may be some limited situations where it would be appropriate to allow large group assembly facilities. The Commission felt that should such uses be allowed, that strict rules be established so that the door is not opened to urban-type uses and that they try to place the uses near city boundaries so that they can serve jurisdictions. He stated that the minority view was that there should be some exceptions, primarily in recreational types of facilities.

Council Member Chang noted that a recommendation of the Planning Commission was that should

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large group facilities be allowed, the City should allow them to be constructed near the City limits. She inquired if allowing large group facilities adjacent to the city limits would result in annexation without going through the annexation process?

Mr. Rowe said that development of a project to an urban scale, under normal circumstances, would only occur within the incorporated area of the City. However, the end result would be similar to an urban level of development but residing outside the city limits.

Council Member Chang inquired whether the City would lose control if the County approves a large facility?

Mr. Rowe indicated that it is County policy to send a referral notice to the City and request City comments on a proposed large facility. The County would take the city's comments into consideration and factor these comments into their decisions. However, the County would retain jurisdiction over the land use decision. He noted that the County has an agreement and policies contained within their General Plan that stipulates that they would only allow uses that would be consistent with Morgan Hill's General Plan within the unincorporated area. The County would need to place this agreement aside if the County is to allow a large use because the City's General Plan does not make accommodations for large facilities in unincorporated areas within the City's urban growth boundary.

Council Member Chang inquired whether the City should make a stipulation that the City is to retain some control for large facilities when located in the City's urban growth boundary?

Mr. Rowe stated that the recommendation from the majority of the Planning Commission and staff was that the County should not change the fundamental policies but to encourage these types of uses to locate within the incorporated city limits of the affected jurisdiction, in which case, the city does not have to pursue this path. He clarified that the Planning Commission felt that if a decision, on the part of the Board, is to allow uses in the rural unincorporated area, that they should occur within an area that is near a city limit so that they can serve the adjacent urban population and be built consistent with that city's development standards.

Council Member Tate and Mayor Pro Tempore Carr concurred with the Planning Commission and staff's recommended direction.

Council Member Chang stated that she did not support large facilities adjacent to the city limits or the urban growth boundary. She would prefer that large facilities be located away from the City limits so that they do not utilize city services and that they be serviced by the County.

Mr. Rowe clarified that the Commission was not stating that the City support a change in County policy to allow these facilities in the rural unincorporated areas. The Commission is stating that if this change in policy were to occur, that large facilities be placed in areas near city limits so that the facilities can also serve the urban population. The reason for the recommendation to build consistent with city standards is the expectation that at some point in time, the city boundary would expand to include the facility.

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Council Member Tate stated that the argument is to site large facilities adjacent to the City so that the City can control the use, its location and development standards. He recommended that the policy be retained as exits.

Action:

It was the consensus of the Commission to **Direct** Staff to Forward City Comments on the Subject Report to the County Board of Supervisor's Housing, Land Use, Environment, and Transportation, indicating that the City wants to retain the policy as currently exits.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Commissioner Tate requested that staff agendize the discussion of parking lot sales and how they get permitted. He referred to an event that occurred at Tennant Station a couple of weeks ago that should have received some level of review to see if the use was appropriate for the City.

ADJOURNMENT

There being no further business, Mayor Pro Tempore/Agency Member Carr adjourned the meeting at 9:10 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary

CITY OF MORGAN HILL JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING

MINUTES - OCTOBER 23, 2002

CALL TO ORDER

Redevelopment Agency Vice-Chairperson Chang called the meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Present: Vice-Chairperson/Council Member Chang, Agency/Council Members

Carr, Tate, Sellers

Absent: Mayor/Chairperson Kennedy

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Agency Council/City Attorney Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

<u>CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING</u> LITIGATION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1

potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the

southwesterly side of Cochrane Road (St. Louise

Hospital property)

City Negotiators: Agency Members; Executive Director; Agency

Counsel; F. Gale Conner, special counsel; Rutan &

Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill
Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate

Negotiations

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OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chairperson Chang opened the closed session items to public comment.

No comments being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Vice-Chairperson Chang adjourned the meeting to closed session at 6:31 p.m.

RECONVENE

Vice-Chairperson Chang reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Council/City Attorney Leichter announced that there was no reportable action taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Vice-Chairperson Chang, Ms. Dina Campeau, led the Pledge of Allegiance.

PROCLAMATIONS

Vice-Chairperson Chang presented a proclamation designating November 17 - 23, 2002, as Hunger and Homelessness Awareness Week to Ms. Dina Campeau, of the Emergency Housing Consortium.

Ms. Campeau summarized the educational programs and services provided by the Emergency Housing Consortium during Hunger and Homelessness Awareness Week to educate the public about this problem.

OTHER REPORTS

Agency/Council Member Tate reported that he had attended a dinner held to thank those who participated in making the Taste of Morgan Hill a successful event this year. He was presented with a plaque thanking the City for its support and participation in the event, which he will pass on to the City Manager.

He also reported on the on-going effort to gain Proposition 14 grant funding for a new library. The decision will be made on December 2, and he encouraged all library users to assist the lobbying effort to get the attention of the decision makers about the need for a new library. Those interested

in participating can find information on the City website on how to write to decision makers. He encouraged citizens to participate because their input will have an impact on this decision.

PUBLIC COMMENT

Vice-Chairperson Chang opened the floor to comments for items not appearing on this evening's agenda.

No comments being offered, the public comment was closed.

CONSENT CALENDAR:

Redevelopment Agency Action

Action: On a motion by Agency/Council Member Sellers and seconded by Agency/Council

Member Tate, the Redevelopment Agency/City Council unanimously (4-0), with

Kennedy Absent, Approved Items 1 - 6, as follows:

1) <u>SEPTEMBER 2002 FINANCE AND INVESTMENT REPORT</u>

Action: Accepted and Filed Report.

City Council Action

2) PROCLAMATION FOR WORLD POPULATION AWARENESS WEEK

<u>Action: Approved</u> Proclamation Proclaiming the Week of October 21-27, 2002, as World Population Awareness Week.

3) SUPPORT FOR PROPOSITION 46

Action: Officially Supported Proposition 46.

4) OFFICE XP SOFTWARE PURCHASE

<u>Action:</u> <u>Authorized</u> the City Manager to Issue a Purchase Order in the Amount of \$26,509.68 to Dell for Office XP Licenses.

5) 2003 RECYCLING REWARDS CALENDAR

<u>Action:</u> <u>Determined</u> That Repeating the Formal Bidding Process Would Not Be Likely to Result in a Lower Price, or Would Cause Unnecessary Delay; and <u>Authorized</u> the City Manager to Issue a Purchase Order in the Amount of \$24,466 to Chase Printing for the 2003 Recycling Rewards Calendar.

6) <u>ADOPTION OF REVISED CLASSIFICATION SPECIFICATION AND</u> SALARY RANGE FOR HOUSING PROGRAM COORDINATOR POSITION

<u>Action:</u> <u>Adopted</u> the Revised Job Description and Salary Range for the Housing Program Coordinator in Business Assistance and Housing Services.

OTHER BUSINESS

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City Council Action

7) SEWER AND WATER REVENUE REQUIREMENTS

Director of Finance Dilles presented the staff report.

The City's sewer and water rate consultant, MAXIMUS, has been studying the City's sewer and water revenue requirements and rate structure over the past year. The rates were last adjusted in 1997. The consultant has worked with staff and produced a report in which they have analyzed and projected the City's water and sewer revenue requirements. From this review and analysis, they have concluded that there is no obvious reason why the City's water or sewer rate structures should be changed and they have not recommended any such changes. Concerning sewer rates, they have concluded that there is no need to change the existing rates for the period through 2006/07.

For water rates, the consultant has provided three options:

- 1) Increase water rates by 2% in each of the years from 2002/03 through 2006/07; or
- 2) Implement a one-time increase of 8% to water rates effective April 1, 2003; or
- 3) Borrow \$1.5 million in the bond market in 2004/05, to finance capital related costs, and keep rates constant through 2006/07.

The consultant's assumptions include a 3% annual inflationary increase in costs, including the City's cost of purchasing water from the Santa Clara Valley Water District. Should actual annual water cost increases be higher than 3%, revenue requirements would increase and water rates for the City's customers would be impacted. While option #3 would keep rates constant through 2006/07, it would cause higher water rates down the line because related future debt service payments would be financed by future rate payers.

Staff seeks guidance from the Council as to which of the consultant's three options for meeting water revenue requirements should be implemented. Staff believes a workshop study session would be ideal for the Council to further discuss the alternatives and receive community input concerning sewer and water revenue requirements and rates, so that a decision on these alternatives may be made by January 1, 2003.

The overall conclusion reached by the consultant is that the sewer revenue requirements do not require any rate adjustments at this time and that water revenue requirements indicate that the City should take steps to provide for projected revenue requirements.

It is also necessary to adjust the contract with MAXIMUS by \$27,043.30 to provide for necessary services related to the sewer and water study and by \$5,752.66 for work on the completed development impact fee study, for a total increase of \$32,795.96. These necessary additional costs result from the complexity of the tasks and additional time spent by the consultant. These costs may be absorbed within the existing budget.

Director of Finance Dilles introduced consultant John Farnkopf, who made a presentation to the Council on their analysis of the sewer and water revenue requirements. He presented the Council with a power point presentation, which is incorporated into the agenda packet for this meeting.

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Expressed concern about the aging condition of the water infrastructure for the city. Explained the reasoning behind the recommended reserve balance target criteria for the water and sewer funds to cover operations, rate stabilization, capital projects, and impact fund.

Reviewed the alternatives recommended for Council consideration; a 2% rate increase per year; a one-time 8% rate increase in FY 02-03; and no rate increase with a bond issue to cover the cost of capital projects.

The 1997 rate structure is still acceptable and meeting the needs of the city, but there are some significant near-term capital costs in the near future that will need to be funded.

Council Member Carr asked why the reserve is so much above the target in FY 01-02?

Finance Director Dilles reported the reserve balances were high in 1997 and have continued to accumulate even though rates were reduced. The is due to the type of housing development that has occurred since 1997, with larger houses that use more water and pay a higher water rate generating more revenue. Also, there has been saving for capital projects.

He also stated that inflation has been factored at the standard rate of 3%, but if it should be higher adjustments would be required. Also, Alternative 3, while not increasing rates, would have an effect down the line because of the years of debt service that would ultimately cause higher rates.

Mr. Farnkopf then reported on the sewer revenue fund, stating there would be a much more gradual increase in revenue requirements; and, with no rate increase, a gradual erosion of reserves. Currently, there are sufficient reserves to cover increased revenue requirements over the next five years. However, the Impact Reserve is not high enough, and an \$8 million debt will need to be issued in FY 04-05 to cover these costs.

No public comment was offered on this item.

Council determined that November 13, 2002, would be the best date for the workshop on this issue. Participation by City Treasurer Roorda was requested.

Action: The City Council Reviewed the Water and Sewer Fund Revenue Requirements Study, and Scheduled a Workshop on November 13, 2002, to Evaluate Sewer and Water Revenue Alternatives, So That a Decision on These Alternatives Will Occur by

January 1, 2003.

Action: On motion by Council Member Sellers, and seconded by Council Member Tate, the City Council unanimously (4-0), with Kennedy absent, <u>Authorized</u> the City Manager to Execute an Increase in the contract with Maximus in the Amount of \$32,795.96, Subject to the City Attorney's Review and Approval.

8) <u>KIWANIS CLUB HOLIDAY PARADE REQUEST TO WAIVE SPECIAL EVENT</u> PERMIT FEE AND PROVIDE IN-KIND SUPPORT

City Manager Tewes presented the staff report, stating that representatives of the Morgan Hill

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Kiwanis Club have requested that the Special Event Processing fee be waived and that the City donate services in support of the annual Holiday Parade. The Holiday Parade is an annual downtown event coordinated by the Kiwanis Club, which is a nonprofit service group. The amount they do charge goes towards the expense of new decorations and promotion. Kiwanis reports that this event is not a fund-raiser, but a community service project for the club, and does not raise additional funds

Council Member Sellers stated he would like to see a formalized sponsorship agreement for this event, because he wants the public to know that the City participates financially in the project.

Public comment was opened.

Mr. Lew Aebersold, representing the Kiwanis, stated that they would be very pleased to partner with the City in the Christmas Parade.

There being no further comments, public comment was closed.

Council Member Tate stated that the suggestion that we charge the Special Event Processing fee to the Community Promotions fund was a good idea, because when we are in partnership the city should pay the fee.

Action:

On a motion by Council Member Tate, and seconded by Council Member Sellers, (4-0, with Kennedy Absent) Council <u>Directed</u> staff to enter into a formalized sponsorship agreement with the Kiwanis Club for the Christmas Parade; and <u>Directed</u> staff to pay the \$125 Special Event Processing fee from the Community Promotions Account.

9) COMMUNITY CENTER AND PLAYHOUSE FACILITY OPERATING HOURS

Recreation Manager Spier presented that staff report. Now that marketing for the Community Center building has begun, the Recreation and Community Services Division is seeing a number of requests for reservations of the multi-purpose rooms for events that would extend later than currently established hours. Specifically, potential customers are requesting events to extend until midnight (or later), including Sundays. Staff believes that hours for the multi-purpose rooms could be reasonably extended until midnight, with an additional hour for clean-up, without causing undue impact on the neighboring residential area. Special extended hours should also be established to 1:00 am on New Year's Eye.

Ms. Spier reported that offering extended hours would also impact City operating costs. City staff would almost always be required to work these extended hours on an overtime basis, not only to supervise clean-up and close the facility at a later hour, but also to report to work early the following morning to prepare the facility for other scheduled events. Staff is recommending that if offering extended hours is authorized, that the City Council adopt the resolution to charge a premium fee of 1.5 times the standard rental rates for those extended hours.

Offering extended hours for events at the Community Center Building will increase the marketability and rental revenue of the facility by an unknown amount and will offset the extra cost

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of providing the facility and staff for these events. Should experience show that noise complaints are being routinely received regarding extended hour events, the City staff could simply reduce operating hours as necessary.

Public comment was opened. No comments being received, public comment was closed.

Action: On a motion by Council Member Tate and seconded by Council Member Carr, the

Council (4-0, with Kennedy absent), Authorized Staff to Offer Extended Operating

Hours for the Multi-Purpose Rooms at the Community Center.

Action: On a motion by Council Member Tate and seconded by Council Member Carr, the

Council (4-0, with Kennedy absent), <u>Adopted</u> Resolution No. 5619, Establishing Fees

for Extending Operating Hours at the Community Center.

10) REVIEW OF ZONING REGULATIONS FOR PARKING LOT USED CAR/TENT SALES

Ed presented the staff report, and stated that Council Member Tate requested this item be placed on the agenda for discussion. Parking lot sales are regulated under Section 18.54.160.A of the Municipal Code. Such uses are limited seven days in any 180-day period and require a Temporary Use Permit (TUP), approved by the Community Development Director. A Temporary Use Permit was approved recently for Hartzheim Dodge to conduct used car sales in the parking lot at the Tennant Station shopping center the weekend of October 4-6, 2002. This past week, the City issued another TUP for Hartzheim Dodge to conduct the same use at Tennant Station on October 25 through October 28. After conclusion of the used car sales on October 28, the maximum seven days for the use will have elapsed and the shopping center location will not be available for parking lot sales the next six months (180 days).

The two TUP's issued to Hartzheim Dodge are the only permits the City has approved specifically for used car sales. Other types of parking lots sales that have been approved include the sale of Christmas trees, garden supplies, spas and swimming pool equipment, etc. Such uses must be conducted in a manner so as not to impact adjacent businesses or occupy required parking spaces for those businesses.

Mr. Tewes noted that if the Council's intention is to direct changes be made, direction should be given the Planning Commission to do so.

Public comment was opened. None being offered, public comment was closed.

Council Member Tate pointed out that there were two letters submitted to the Council on this issue.

Council Member Tate stated that he had requested this item be placed on the agenda for two reasons. He had driven by the car lot sale and noticed the carnival-like atmosphere, which struck him as being schmaltzy and made him wonder how the permit had received approval. He also had received a call from Al Chew, the owner of the local Chevrolet dealership, expressing his objection to this type of parking lot sale, since he is restricted from doing that on his permanent lot. Mr. Chew questioned why this was allowed in direct competition with permanent dealers in the city. Council

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Member Tate stated that he agreed the city should be looking out for the permanent auto dealers, and he just did not want to have this kind of an atmosphere in Morgan Hill. Wanted to outlaw permits for temporary car sales or the "Carney" atmosphere, or something, but wanted the issue addressed.

Council Member Chang asked if there was any sales tax benefit to the city?

City Manager Tewes reported that sales tax is received if they file a temporary sales tax permit. There was none filed for the previous event, but there was for the upcoming event; and the city will receive some sales tax revenue from that. The owner of the shopping center felt that it would be advantageous to his center to allow the use of his parking lot for the event, and some of the businesses in the center were able to take advantage of the sale to help their businesses.

Council Member Sellers asked for clarification on the appeal process for this type of permit.

City Attorney Leichter stated that the normal appeal process for a Temporary Use Permit is through the Planning Commission, and then to City Council on appeal.

Council Member Tate stated the he was not aware that a second permit had been issued, and felt that it was now too late for an appeal process to take place for the upcoming weekend event.

Council Member Carr stated that he wants the Planning Commission to review this issue and make sure there are temporary sales tax permits required, control over signage and use of balloons, and regulation of how they set up and advertise such events. Also wants them to review the allowance of 7 out of every 180 days. Stated he does not want to repeal this use entirely, but would like better controls instituted.

Council Member Chang stated that she wants to make sure that the city receives the sales tax from such uses.

Council Member Sellers stated that those who are concerned with individual TUP's should go through the established appeals process via the Planning Commission rather than assume that city staff or the Council had intentionally made a decision that would harm existing businesses. Agreed that this was an important issue to bring to the Council's attention, and encouraged them to go ahead with an appeal on their own to the Planning Commission, per established procedures. Stated that the city should be circumspect in how the issue is handled, and not be too narrow in the review.

Council asked that staff relay the concerns of the Council raised this evening to those who are planning to hold the parking lot sale this weekend, and request them to give consideration to taking care not to be so garish.

City Manager Tewes stated that staff had already discussed with them that they not use balloons. He also noted that some of the tenants of the center are planning to take advantage of the lot sale to have their own sales.

Council Member Tate stated that he did not interpret the letters Council had received as being accusatory, but as trying to point out the situation and the impact on businesses in town when this is allowed to happen.

Joint Agenda Special and Regular Redevelopment Agency Meeting Special City Council Meeting October 23, 2002 - Minutes Page -9-

He also suggested that consideration be given to limiting such parking lot sales to local businesses.

Council Member Sellers stated that he appreciated the professionalism of the Chamber of Commerce's comments, and would like to have others maintain a similar level of professionalism in their communications.

Council Member Chang stated that she is not sure these permits have to be limited to local businesses, but wants to make sure that all of them pay sales taxes.

Council Member Carr stated that he would like the Planning Commission to review how Temporary Use Permits are structured and issued.

Action:

On a motion by Council Member Carr, and seconded by Council Member Tate, the Council (4-0, with Kennedy absent), <u>Requested</u> the Planning Commission to Consider Amendments to the Municipal Code to Establish New Regulations Regarding Parking Lot Sales.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Vice-Chairperson Chang adjourned the meeting at p.m.

MOIRA MALONE, Deputy Clerk

MINUTES RECORDED AND PREPARED BY



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

DEVELOPMENT AGREEMENT AMENDMENT DA 02-04: SUNNYSIDE-QUAIL CREEK

Agenda Item # 15
Prepared By:
Senior Planner
Approved By:
Community
Development Director
Submitted By:
City Manager

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Waive the First and Second Reading of Ordinance
- 3. Introduce Ordinance

EXECUTIVE SUMMARY: This application was originally included in the City Council's October 16 agenda. Due to an error in the public notice process, action could not occur at the October meeting. The public hearing was opened and the item was continued to this agenda. Proper noticing has occurred and the Council may take action at this time.

The applicant is requesting approval of a development agreement that will cover the development commitments for a 12-lot portion (phase 1B) of the 15.7-acre Quail Creek development located on the north east corner of the intersection of Sunnyside Ave. and Watsonville Rd.

On March 6, 2002, the City Council approved an RPD plan for the Quail Creek project. The project first received building allocations (FY 2002-03, 12 allocations & FY 2003-04, 6 allocations) in the 2000 MP competition. The applicant has already begun clearing the site for construction of Phase 1A, which consists of 20 single family homes on lot sizes ranging from 4,000-11,000 sq. ft. Phase 1A will be completed on the south side of the site, taking access from Watsonville Rd.

As of May 14, 2002, the Commission awarded another 12 allocations for FY 2003-04. The 12 allocations are defined as phase 1B, which will complete a cul-de-sac adjacent to phase 1 A.

In accordance with established City Council policy, all residential projects awarded building allotments through the Residential Development Control System must secure City Council approval of a Development Agreement. The purpose of this agreement is: to secure commitments made during the Residential Development Control System process, and to establish a development schedule and mechanism for monitoring project success. Special attention is directed to Paragraph 14 of the Agreement which addresses

ORDINANCE NO. 1585, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF A DEVELOPMENT AGREEMENT, DA-02-04: SUNNYSIDE-QUAIL CREEK FOR APPLICATION MP 01-11: SUNNYSIDE-SOUTH VALLEY DEVELOPERS

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 12 building allotments were awarded to application MP 01-11: Sunnyside-South Valley Developers for fiscal year 2003-2004; and

Project Total Dwelling Units

MP 01-11: Sunnyside-South Valley Developers 12 building allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

City of Morgan Hill Ordinance No. 1585, New Series Page - 2 -

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSENT: ABSTAIN:		
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	CERTIFICATE OF	THE CITY CLERK
CALIFORN 1585, New Se	IA, do hereby certify that the forego	OF THE CITY OF MORGAN HILL, bing is a true and correct copy of Ordinance No. the City of Morgan Hill, California at their regular.
WIT	NESS MY HAND AND THE SEA	L OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

OSR-02-02: MANZANITA-MCLAREN

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Adopt attached resolution of approval forwarding the request to LAFCO..

EXECUTIVE SUMMARY: This application was originally included in the City Council's October 16, 2002 agenda. Due to an error in the public notice process, action could not occur at the October meeting. The public hearing was opened and the item continued to this agenda. Proper noticing has occurred and the Council may take action at this time.

Agenda Item # 17
Prepared By:
Assistant Planner
Approved By:
Community
Development Director
Submitted By:
City Manager

A homeowner in Holiday Lakes Estates is requesting an Out of Urban Service Area request for a sewer connection for an existing 702 sq. ft. home on a .39 acre parcel located at 17645 Manzanita Dr. The home is outside the City Limits and Urban Service Boundary.

The home is currently being served by City water but not City sewer service. The septic system that supports the structure has failed and the County Health Department has recommended that the home be connected to a sewer system (see an attached letter from County of Santa Clara). Due to the soil type, lack of land area for a new septic system, and the topography of the property, the installation of a new system is not possible. An inspection report from a septic service company is attached. Attached is a map of the property showing the location of existing structures, proposed garage and proposed sewer line. Also attached is a photo of the site, showing seepage from the failed septic tank.

Section 18.78.080 B, of the Municipal Code reads as follows: "The City shall grant no new extensions of urban services for residences beyond its urban service area except in the event that: B. An owner of an existing development requests an extension due to the failure of an existing septic system or well and the city council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety."

The absence of proper sewage disposal is a public health concern. Connection to City sewer appears to be the only viable option at this time since the parcel cannot accommodate a new septic system and the existing one cannot be repaired. A City sewer line already exists at the rear of the property. The extension of sewer service to this property would involve the installation of an on-site lateral. Staff recommends approval of the request since the finding of a direct adverse impact on the public health and safety can be made. The attached Council resolution will be forwarded to LAFCO for consideration.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

RESOLUTION NO. 5618

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF CITY SEWER SERVICE TO AN UNINCORPORATED PROPERTY LOCATED AT 17645 MANZANITA DR. (APN 729-39-026)

WHEREAS, the Santa Clara County Department of Environmental Health has determined that the septic system has failed. Due to the limited area available for repair, the County has recommended connecting to a sanitary sewer to resolve the eminent nuisance and unsafe condition created by the failed septic system.

WHEREAS, the City Council finds that the present septic system cannot be replaced or repaired. In the best interest of the public health and safety and the hardship imposed on the property owner, a connection to the City sewer is recommended; and

WHEREAS, the existing residential use is consistent with the County zoning and City General plan and the use without proper sewage disposal has an adverse effect on the public's health and safety; and

WHEREAS, no other options are available for providing sewage disposal for the property; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

WHEREAS, such request was considered by the City Council at their regular meeting of October 16, 2002, and November 6, 2002, at which time the City Council approved the Out of Urban Service Area Request, OSR-02-02: Manzanita-McLaren.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

- **SECTION 1.** Based on a determination of the County Department of Environmental Health in a letter dated August 28, 2002, the City Council finds that the subject property cannot be provided with septic service due to parcel size, soil type, and topography of the parcel. Denial of services would have a direct adverse impact on the public health and the property owner.
- **SECTION 2.** The City sewer line currently exists at the rear of the property and would not need to be extended to service the subject property. An on-site hook up to the existing line would be necessary and is consistent with the General Plan policies and Urban Service Extension policy and Morgan Hill Municipal Code section 18.78.080.

City of Morgan Hill Resolution No. 5618 Page - 2 -

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

***** CERTIFICATION *****

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5617, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

General Plan Amendment Application, GPA 02-02: Watsonville-City of Morgan Hill RDA & Zoning Amendment Application ZA-02-06: Watsonville-City of Morgan Hill RDA RECOMMENDED ACTION(S):

- 1. Open/Close Public Hearing
- 2. Approve Mitigated Negative Declaration
- 3. Adopt Resolution Approving General Plan Amendment
- 4. Adopt Ordinance Approving Zoning Amendment

Agenda Item # 17
Prepared By:
Assistant Planner
Approved By:
Community
Development Director
Submitted By:
City Manager

EXECUTIVE SUMMARY: This application was originally included in the City Council's October 16, 2002 agenda. Due to an error in the public notice process, action could not occur at the October meeting. The public hearing was opened and the item continued to this agenda. Proper noticing has occurred and the Council may take action at this time.

This is a request to amend the General Plan land use designation from Public Facilities to Multi-Family Low and amend the zoning designation from Public Facilities to R2-3,500 to maintain consistency with the proposed General Plan designation. The site is a 1.55 acre parcel on the northside of Watsonville Rd., 800 ft. west of the Monterey Rd. and Watsonville Rd. intersection. The Morgan Hill Redevelopment Agency (RDA) bought the site for use as a future fire station. The Santa Clara County Fire Department recently completed a study and determined the site was no longer appropriate for a fire station. County Fire is looking for an alternative site for a new fire station more centrally located in the community. The RDA is looking at developing the site as affordable housing for teachers, police officers, and other public employees. The site currently abuts the 24-unit Rio Sereno multi-family housing project to the north and west.

The proposed amendment to the General Plan would encompass the entire 1.55 acre of the parcel. The proposed amendment would be consistent with the General Plan land use designation in the area. On three sides of the site, the General Plan designation is Multi-Family Low.

Goal 7 of the City's Land Use Element states the City should provide a variety of housing types and densities available to all residents. Approving the amendment to the General Plan would meet the City's 7d policy, encouraging higher residential densities at locations where convenient access and adequate infrastructure is readily available and policy 7p providing housing at a range of costs that meet the needs of all sectors of the workforce. The multi-family designation will be consistent and compatible with development on Watsonville Rd.

RESOLUTION NO. 5617

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA 02-02: WATSONVILLE-CITY OF MORGAN HILL RDA CHANGING THE LAND USE DESIGNATION FROM PUBLIC FACILITIES TO MULTI-FAMILY LOW ON A 1.55 ACRE SITE. (APN 767-23-017)

WHEREAS, the City Council of the City of Morgan Hill at their regular meeting of October 16, 2002, and November 6, 2002, considered General Plan Amendment, GPA 02-02: Watsonville-City of Morgan Hill, a request to amend the designation on a 1.55 acre site, from Public Facilities to Multi-Family Low; and

WHEREAS, the City Council received and considered testimony at a duly noticed public hearing; and

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

- **SECTION 1.** The General Plan amendment is consistent with the provisions of the General Plan.
- **SECTION 2.** An environmental initial study has been prepared for the proposed General Plan amendment. A Mitigated Negative Declaration will be filed.
- **SECTION 3.** The City Council hereby approves a General Plan Amendment allowing for a land use designation change from Public Facilities to Multi-Family Low on a 1.55 acre site as shown in attached Exhibit "A".

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

CERTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5617, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
-	IRMA TORREZ, City Clerk

ORDINANCE NO. 1586, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF ZONING AMENDMENT ZA-02-06 WATSONVILLE-CITY OF MORGAN HILL RDA CHANGING THE ZONING DESIGNATION FROM PUBLIC FACILITIES TO R2-3,500 ON A 1.55 ACRE SITE. (APN 767-23-017)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1.** Re-zone 1.55 acres of land, which fronts onto Watsonville Rd.
- **SECTION 2. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled "Exhibit A" Map Showing Lands of Morgan Hill Redevelopment Agency which gives the boundaries of the described parcels of Land.
- **SECTION 3. DESCRIPTION OF LAND IN ZONING.** There hereby is attached hereto and made a part of this ordinance a legal description entitled "Exhibit B" which gives the boundaries of the described parcels of Land.
- SECTION 4. FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendments established by this ordinance as herein described are compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendments are required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- **SECTION 5.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration will be filed.
- **SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 7.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

City of Morgan Hill Ordinance No. 1586, New Series Page - 2 -

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November, 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November , 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSENT: ABSTAIN:		
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	CERTIFICATE C	OF THE CITY CLERK
CALIFORN 1586, New Se	IIA, do hereby certify that the for	RK OF THE CITY OF MORGAN HILL, regoing is a true and correct copy of Ordinance No. of the City of Morgan Hill, California at their regular 002.
WIT	NESS MY HAND AND THE SI	EAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



REDEVELOPMENT AGENCY

MEETING DATE: November 6, 2002

WATSONVILLE ROAD HOUSING PROJECT

RECOMMENDED ACTION(S):1) Approve the concept for the development of 12 for-sale housing units for teachers on the Redevelopment Agency (Agency)-owned property at the south-west corner of Watsonville Road/Calle Sueno; and 2) Direct staff to negotiate, prepare, and execute a pre-development loan agreement with South County Housing (SCH) not to exceed \$50,000, conditioned upon the approval by Agency General Counsel.

Agenda Item #18

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

EXECUTIVE SUMMARY: On September 4, 2002, the Agency considered a concept from SCH to develop seven for-sale duet homes on the approximately one-acre Agency-owned property at the south-west corner of Watsonville Road/Calle Sueno (see attached staff report). The project is intended to serve school teachers. At the meeting, staff was directed to develop a new concept with more units on the site. The new concept is for 12, three and four bedroom duet homes (see attached plans). The units will be affordable to teacher households earning approximately \$55,000 to \$115,000 annually.

A contribution by the Agency will be necessary to make the project financially feasible. SCH is requesting a gross Agency contribution of \$950,000 which includes the land valued at \$400,000. Since SCH estimates that \$250,000 will be repaid at permanent loan closing, the net investment by the Agency would be \$700,000, or approximately \$60,000 per unit (see attached). Should the Agency wish to instead consider seven units the Agency's total investment would be approximately \$250,000 greater largely because of the fixed project costs (e.g., architectural, land costs, construction management, etc.) coupled with less money received for the sale of the homes. SCH has also requested a \$50,000 pre-development loan to help pay for project start-up costs, some of which SCH has already incurred. The pre-development loan would "roll-into" permanent financing for the project. Agency funds would be secured by "silent second" mortgages on the property and/or through resale restrictions. While the specific structure of the affordability and ownership restrictions are yet to be determined, it is anticipated that the project operation will be modeled after the BMR home-ownership program.

Staff and SCH met twice with the neighboring property owners to obtain their input on the project concept. Most of the homeowners expressed serious concerns about the proposed density and the potential impact of the project on their property values. Staff and SCH also met with a focus group of teachers. The seven teachers present confirmed the financial difficulty new teachers face in purchasing a first home in the area. They were very enthusiastic about the project and thought it would be in great demand.

Staff is seeking Agency approval of this revised project concept. If approved staff will:1) negotiate a predevelopment loan agreement with SCH in an amount not to exceed \$50,000; and 2) request that SCH proceed to file a Measure P application for the Fiscal Year 2002/20003.

FISCAL IMPACT: Sufficient funds have been allocated in the Agency's Fund 327 FY2002-2003 Budget to finance the project. Staff recommends that \$400,000 from Fund 327 (20% Housing Set-Aside) be repaid to Fund 317 (80% monies) for the market value of the property, since 317 funds were originally used to purchase the site.

CITY COUNCIL MEETING STAFF REPORT

MEETING DATE: November 6, 2002

TITLE: Zoning and Development Agreement Applications ZAA00-

17/DA 02-06: Llagas-Delco/Dividend

RECOMMENDED ACTION(S):

- 1. Open/Close Public Hearing
- 2. Waive the reading in full of the residential planned development (RPD) Ordinance
- 3. Introduce on first reading the RPD Ordinance (roll call vote)
- 4. Waive the reading in full of the development agreement (DA) Ordinance
- 5. Introduce on first reading the DA Ordinance (roll call vote)

Agenda Item # 19
Prepared By:

Senior Planner
Approved By:

Director of Community
Development
Submitted By:

City Manager

EXECUTIVE SUMMARY: A request for approval of a Development Agreement and an amendment to the approved precise development plan for the entire Monte Villa development to incorporate new architectural plans and a revised lot layout for phase three of the Monte Villa project.

The overall Monte Villa project consists of 62 single family homes located on three parcels totaling approximately 20.7 acres. The precise development plan for the project was approved by the City Council August 15, 2001. The project has recently been sold to Dividend homes and they would like to include their own housing product within the development. The final map has recorded for the 41 unit, phase I & II area. No changes are proposed for the street pattern, lot layout and lot sizes for the phase I & II project area. The requested change for the phase I & II area is the incorporation of the new housing units. The new units proposed fit within the same standards approved for the previous RPD plan.

The phase III area of the RPD plan, which is currently requesting tentative map approval, includes changes to the lot sizes, lot configuration and a minor change to the circulation. The circulation, unit size and placement changes within the phase III area are consistent with the project's Measure P commitments and the RPD overlay district requirements.

The RPD overlay district allows for flexibility and variations from the underlying zoning district standards when the proposed development enhances the area by exceptional design and arrangement of buildings, provision of open space and landscaping, protection of the welfare and privacy of adjoining property, or construction and reservation of housing units for lower income or senior households. The proposed changes to the approved precise development plan are in keeping with the purpose of the RPD designation and will further enhance the project

A standard development agreement (Exhibit A of attached ordinance) has been prepared. The project's phase III development schedule is included within the development agreement as Exhibit "B". Other project commitments are contained in paragraph 14 of the agreement.

The Planning Commission considered these applications at their October 8 meeting. The Commission voted 7-0 to recommend approval of the application requests. The Commission's staff reports and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1587, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN ESTABLISH UNDER ORDINANCE 1522 FOR A 62-UNIT R-1(7,000) & R-2 (3,500)/RPD SINGLE-FAMILY RESIDENTIAL PLANNED DEVELOPMENT LOCATED ON THE SOUTH SIDE OF LLAGAS AVENUE, AND THE WEST SIDE OF HALE AVENUE. (APNS 764-32-005, 010 & 012)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1**. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2**. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- **SECTION 3**. An environmental initial study has been prepared for this project and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- **SECTION 4**. The City Council finds that the proposed amendment to the precise development plan is consistent with the criteria specified in Section 18.12.060 and Chapter 18.18 of the Morgan Hill Municipal Code.
- **SECTION 5**. The City Council hereby approves the amended precise development plan as contained in that certain series of documents dated September 26, 2002, on file in the Community Development Department, entitled "Monte Villa Site Plan Phase I & II" prepared by M.H. Engineering and that certain series of documents dated October 2, 2002 on file in the Community Development Department, entitled "Monte Villa Site Plan Phase III" prepared by M.H. Engineering and elevations by Dahlin Group. These documents as amended by Site and Architectural Review supercede the documents approved under Ordinance1522.

City of Morgan Hill Ordinance No. 1587, New Series Page - 2 -

City of Morgan Hill held on the 6th Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20th Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	CERTIFICAT	E OF THE CITY CLERK
CALIFORN 1587, New S	VIA, do hereby certify that the	LERK OF THE CITY OF MORGAN HILL, foregoing is a true and correct copy of Ordinance No. cil of the City of Morgan Hill, California at their regular, 2002.
WIT	NESS MY HAND AND THE	SEAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk

ORDINANCE NO. 1588, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 02-06 FOR MP 01-05: LLAGAS-DELCO (APN 764-32-005, 010 &012)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 14 building allotments were awarded to application MP 01-05 Llagas-Delco for fiscal year 2003-2004; and

<u>Project</u>

Total Dwelling Units

MP 01-05 Llagas-Delco

14 building allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30)

City of Morgan Hill Ordinance No. 1588, New Series Page - 2 -

days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSENT: ABSTAIN:		
ATTEST:		APPROVED:
Irma Torre	z, City Clerk	Dennis Kennedy, Mayor
	E CERTIFICATE	OF THE CITY CLERK
CALIFORN 1588, New S	NIA, do hereby certify that the	ERK OF THE CITY OF MORGAN HILL, foregoing is a true and correct copy of Ordinance No. cil of the City of Morgan Hill, California at their regular 2002.
WIT	NESS MY HAND AND THE	SEAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 6, 2003

ZONING AMENDMENT: ZAA-01-12 AND DEVELOPMENT

AGREEMENT DA-02-05: CENTRAL-CENTRAL PARK

PHASE V. (APN 767-27-037)

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Waive the First and Second Reading of the Ordinance Amending the R-1 & R-2/RPD Zoning
- 3. Introduce Ordinance
- 4. Waive the First and Second Reading of the Ordinance approving the Development Agreement for Phase 5B.
- 5. Introduce Ordinance

EXECUTIVE SUMMARY:

A request for approval of a Development Agreement and an amendment to the approved precise development plan for the Central Park development to incorporate a revised lot layout for phase 5B of the project. The residential development is located on the north side of East Central Avenue at Calle Hermosa, north of El Toro Elementary School. The applicant is requesting an amendment to the precise development plan for the R-2 portion of the RPD to incorporate single-family detached units consistent with the project 2001 Measure P application. The Measure P scoring criterion was amended a year ago to allow approximately 25 percent of the units in an R-2 district to be single-family detached units. Lots 7 and 8 on the subdivision map were originally locations for duet units. The Planning Commission, by a vote of 7-0, recommends approval of the above amendment to the Central Park RPD.

A standard development agreement (Exhibit A) has been prepared by Staff for the proposed project and is attached for the Council's review. Staff and the Planning Commission recommend approval of the development agreement, as amended by Planning Commission action. The attached Planning Commission report and minutes of the October 8, 2002 Commission meeting provides additional background information on these applications.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 20

Prepared By:

Planning Manager

Submitted By:

City Manager

ORDINANCE NO. 1595, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO A PRECISE DEVELOPMENT PLAN FOR A 164 UNIT R-1(7,000) & R-2 (3,500)/RPD SINGLE-FAMILY RESIDENTIAL PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF EAST CENTRAL AVENUE AT CALLE HERMOSA. (APN 726-27-037)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- **SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- **SECTION 3. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled "Exhibit A" Map Showing Re-zoning of Central Park, which gives the boundaries of the described parcels of Land.
- **SECTION 4.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration has been filed.
- **SECTION 5.** The City Council finds that the proposed RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- **SECTION 6.** The City Council hereby approves a precise development plan as contained in that certain series of documents dated May 29, 2002 & August 28, 2002 (date stamped) on file in the Community Development Department, entitled "Site Development Plan Central Park and Site Development Plan Central Park Phase 5A" (also contains lots for Phase 5B) prepared by EDI Architecture, Inc. These documents show the exact location and sizes of all lots in this development and the location and dimensions of all proposed vehicle and pedestrian circulation ways and drainage, open space and landscape areas.
- **SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. 1595, New Series Page - 2 -

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSENT: ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	, City Clerk	Dennis Kennedy, Mayor
	EXECUTE OF	THE CITY CLERK
CALIFORN 1595, New Se	IA, do hereby certify that the foreg	K OF THE CITY OF MORGAN HILL, going is a true and correct copy of Ordinance No. The City of Morgan Hill, California at their regular 2.
WIT	NESS MY HAND AND THE SEA	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk

ORDINANCE NO. 1596, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA-02-05: EAST CENTRAL - CENTRAL PARK FOR APPLICATION MP-01-10: CENTRAL - CENTRAL PARK DEVELOPMENT, LLC

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No 02-36, adopted May 14, 2002, has awarded allotments to that certain project herein after described as follows:

Project Total Dwelling Units

MP-02-10: Central - Central Park 8 single-family homes

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

City of Morgan Hill Ordinance No. 1596, New Series Page - 2 -

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	
ABSENT:	COUNCIL MEMBERS:	
ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torre	z, City Clerk	Dennis Kennedy, Mayor
	CERTIFICATE OF	THE CITY CLERK
CALIFORN 1596, New S	NIA, do hereby certify that the foreg	K OF THE CITY OF MORGAN HILL, going is a true and correct copy of Ordinance No othe City of Morgan Hill, California at their regulars 2.
WIT	TNESS MY HAND AND THE SEA	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

AMENDMENT OF MUNICIPAL CODES REGARDING ADOPTION OF THE ADMINISTRATIVE, BUILDING, ELECTRICAL, MECHANICAL, AND PLUMBING UNIFORM CODES

Prepared By:	
City Attorney	_
Submitted By:	
City Manager	_

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing.
- 2. Waive in Full the reading of the Ordinances.
- 3. First Reading of all Ordinances, in one motion.

EXECUTIVE SUMMARY:

Pursuant to the Health and Safety Code, the California Housing and Community Development Department is required to adopt certain uniform codes, published by various professional organizations, as the codes governing various building standards, including electrical, mechanical, and plumbing. If local agencies do not act to adopt their own versions of the uniform codes, the versions adopted by HCD will govern building standards. However, local agencies may modify the uniform codes adopted by HCD upon making findings relating to local geographical, topical or climactic conditions.

HCD recently adopted revised versions of several uniform codes. In order to maintain consistency with the adopted versions of the HCD codes, it is necessary to make revisions to certain provisions of our Municipal Code. Those revisions are attached hereto for, respectively, the Uniform Building, Electrical, Mechanical and Plumbing Codes. Revisions to our general administrative ordinance are also attached. All revisions are merely for title conformance, with two exceptions: two provisions of Chapter 15.12, which previously deleted Article 90-4 of the Electrical Code, have been edited to include Article 90-4 of the Electrical Code; and we are adopting Appendix Chapters Four and Thirty Four of the Building Code. Chapter Four pertains to barriers around swimming pools, spas, and hot tubs, and is more restrictive than the City's current regulations. Chapter Thirty Four is a new provision pertaining to building and structures damaged by natural disasters.

FISCAL IMPACT: No budget adjustment required.

ORDINANCE NO. 1589, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 15.08.010 (ADOPTION OF THE CALIFORNIA BUILDING CODE AND THE UNIFORM BUILDING CODE), 15.08.020 (SHORT TITLE), 15.08.040 (ADDITIONS, AMENDMENTS AND DELETIONS), 15.08.090(A) (SECTION 310.7 AMENDED--SINGLE-ROOM OCCUPANCIES (SRO)), 15.08.100(A) (SECTION 2320.11.3, ITEM 5, DELETED--GYPSUM BOARD USE), 15.08.110(A) (SECTION 2320.11.3, ITEM 7, AMENDED--CONVENTIONAL CONSTRUCTION PROVISIONS (BRACING)), 15.08.120(A) (SECTION 1900.4.4 AMENDED-- MINIMUM THICKNESS), 15.08.130(A) (SECTION 1806 AMENDED--FOUNDATION REINFORCEMENT), 15.08.140(A) (SECTION 3205.2 AMENDED--PROJECTIONS AND CLEARANCE), 15.08.150(A) (SECTION 3205 AMENDED BY ADDING SECTION 3205.8--VERTICAL SUPPORTS), 15.08.160(A) (SECTION 3205.3 AMENDED-- MARQUEE LENGTH), 15.08.170(A) (SECTION 3403.2 AMENDED-- SUSPENDED CEILING UPGRADE), 15.08.190(A) (CHAPTER 13 AND APPENDIX CHAPTER 13 OF THE 1997 UNIFORM BUILDING CODE DELETED), 15.08.200(A) (TABLE 1-A OF THE 1997 UNIFORM BUILDING CODE DELETED), AND 15.08.210 (SECTIONS 904.2.2 THROUGH 904.2.8 OF THE 1997 UNIFORM BUILDING CODE DELETED) OF CHAPTER 15.08 (BUILDING CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MORGAN HILL MUNICIPAL CODE, ADOPTING THE 2001 EDITION OF THE "CALIFORNIA BUILDING CODE" VOLUMES 1, 2, & 3, INCLUDING APPENDIX CHAPTERS 3 DIVISION II, 4, 15, 18, 31, 33 AND 34, WITH AMENDMENTS, AS THE BUILDING CODE OF THE CITY OF MORGAN HILL

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

WHEREAS, the City of Morgan Hill desires to adopt the following uniform code: "2001 California Building Code", which is based on the 1997 Uniform Building Code, which in turn is incorporated by reference where appropriate; and,

WHEREAS, Health and Safety Code section 17958.5 permits a city to make changes or modifications to the uniform codes as deemed reasonable because of local climatic, geological or topographical conditions; and,

WHEREAS, the City Council finds that, pursuant to Health and Safety Code section 17958.7, amendments to the California Building Code, as specifically set forth below and as already encompassed within Chapter 15.08, are reasonably necessary to accommodate local climate, geological, or topographical conditions.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 15.08.010 (Adoption of the California Building Code and the Uniform Building Code) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.08.010 Adoption of the California Building Code and the Uniform Building Code. Pursuant to Sections 50022.1 through 50022.4, inclusive, the text of that certain publication of the International Conference of Building Officials, including the Appendix Chapters 3 Division II, 4, 15, 18, 31 Division II & III, and 33 Divisions II & III, 33 and 34 Divisions III, hereinafter referred to as the "2001 California Building Code, 1998 Edition" and the "Uniform Building Code, 1997 Edition", are is adopted as the rules, regulations and standards within this city as to all matters therein contained except as otherwise provided, will be adopted and in effect October 1, 1999. The mandatory requirements of the appendix to the building code may be enforceable to the same extent as if contained in the body of the building code. One copy of the California Building Code and the Uniform Building Code upon which it is based will at all times be kept on file in the Office of the Chief Building Official, and is available for public inspection."

SECTION 2. Section 15.08.020 (Short Title) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.08.020 Short title. This chapter shall be known as the "**2001** California Building Code" and the "Uniform Building Code" and may be cited as such."

SECTION 3. Section 15.08.040 (Additions, Amendments and Deletions) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"10.08.040 Additions, amendments and deletions. The following provisions of the California Building Code and the Uniform Building Code shall be added, amended or deleted..."

SECTION 4. Section 15.08.090(A) (Section 310.7 Amended--Single-Room Ocupancies (SRO)) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"A. Section 310.7 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code is amended to read..."

SECTION 5. Section 15.08.100(A) (Section 2320.11.3, Item 5, Deleted–Gypsum Board Use) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

- "A. The following provision is hereby deleted: Section 2320.11.3, Item 5 of the **2001** 1998 California Building Code and the, 1997 Uniform Building Code which allows the use of gypsum board for bracing."
- **SECTION 6.** Section 15.08.110(A) (Section 2320.11.3, Item 7, Amended--Conventional Construction Provisions (Bracing)) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 2320.11.3, Item 7 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code is amended as follows . . ."
- **SECTION 7.** Section 15.08.120(A) (Section 1900.4.4 Amended--Minimum Slab Thickness) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 1900.4.4 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code is amended as follows . . . "
- **SECTION 8.** Section 15.08.130(A) (Section 1806 Amended--Foundation Reinforcement) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 1806 of the 1998 **2001** California Building Code, and the 1997 Uniform Building Code, is amended as follows . . . "
- **SECTION 9.** Section 15.08.140(A) (Section 3205.2 Amended--Projections and Clearance) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 3205.2 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code, is amended as follows . . . "
- **SECTION 10.** Section 15.08.150(A) (Section 3205 Amended by Adding Section 3205.8–Vertical Supports) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 3205 of Chapter 32 of the 1998 2001 California Building, Code, and the 1997 Uniform Building Code, is amended by adding Section 3205.8 to read . . . "
- **SECTION 11.** Section 15.08.160(A) (Section 3205.3 Amended--Marquee Length) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. Section 3205.3 of Chapter 32 of the 1998 **2001** California Building Code, and the 1997 Uniform Building Code, is amended as follows . . . "
- **SECTION 12.** Section 15.08.170(A) (Section 3403.2 Amended--Suspended Ceiling Upgrade) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read

City of Morgan Hill Ordinance No. 1589, New Series Page -4-

as follows:

- "A. Section 3403.2 of Chapter 34 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code, is amended to read . . . "
- **SECTION 13.** Section 15.08.190(A) (Chapter 13 and Appendix Chapter 13 of the 1997 Uniform Building Code Deleted) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. The following provisions are hereby deleted: Chapter 13 and Appendix Chapter 13 of the **2001** 1998 California Building Code, and the 1997 Uniform Building Code."
- **SECTION 14.** Section 15.08.200(A) (Table 1-A of the 1997 Uniform Building Code Deleted) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. The following provision is hereby deleted: Table 1-A of the **2001** 1997 California Building Code, and the 1997 Uniform Building Code."
- **SECTION 15.** Section 15.08.210 (Sections 904.2.2 Through 904.2.8 of the 1997 Uniform Building Code Deleted) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:
 - "A. The following provisions are hereby deleted: Sections 904.2.2 through 904.2.8 of the 1998 2001 California Building Code, and the 1997 Uniform Building Code."
 - "B. Findings. The Council finds that Sections 904.2.2 through 904.2.8 of the 1997 2001 Uniform California Building Code are redundant as the City has its own requirements regarding the installation of fire sprinklers, and these provisions are therefore eliminated."
- **SECTION 16. Severability**. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 17. Effective Date Publication**. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6th Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20th Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

Page -5
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED:

Trma Torrez, City Clerk Dennis Kennedy, Mayor

CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1589, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 20th Day of November, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:

IRMA TORREZ, City Clerk

City of Morgan Hill

Ordinance No. 1589, New Series

ORDINANCE NO. 1590, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 15.12.020 (ADOPTION OF THE NATIONAL ELECTRICAL CODE) AND 15.12.060 (ARTICLE 90-4 OF THE 1996 NATIONAL ELECTRICAL CODE), AND DELETING SECTION 15.12.040 (ADDITIONS, AMENDMENTS AND DELETIONS) OF CHAPTER 15.12 (ELECTRICAL CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MORGAN HILL MUNICIPAL CODE AND ADOPTING THE 2001 EDITION OF THE "CALIFORNIA ELECTRICAL CODE," PUBLISHED BY THE NATIONAL FIRE PROTECTION ASSOCIATION, WITH AMENDMENTS, AS THE ELECTRICAL CODE OF THE CITY OF MORGAN HILL

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

WHEREAS, the City of Morgan Hill desires to adopt the following uniform code: "California Electrical Code," which is based on the 1999 National Electrical Code, which in turn is incorporated by reference where appropriate; and,

WHEREAS, Health and Safety Code section 17958.5 permits a city to make changes or modifications to the uniform codes as deemed reasonable because of local climatic, geological or topographical conditions; and,

WHEREAS, the City Council finds that, pursuant to Health and Safety Code section 17958.7, the amendments to the Morgan Hill Municipal Code and the California Electrical Code, as set forth below, and as already encompassed within Chapter 15.12, are necessary to accommodate local climate, geological, or topographical conditions.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 15.12.020 (Adoption of the National Electrical Code) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Section 15.12.020 Adoption of the National California Electrical Code. Pursuant to section 50022.1 through 50022.4, inclusive, of the Government Code of the State of California, the text of that certain publication copyrighted and published by the National Fire Protection Association entitled "National California Electrical Code, 1996 2001 Edition," is hereby adopted as the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter. Three One copies copy of the National California Electrical Code, 1996 2001 Edition, are and shall at all times be kept on file in the office of the City Clerk and are available for public inspection."

SECTION 2. Section 15.12.040 (Additions, amendments and deletions) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) is hereby deleted in its entirety.

City of Morgan Hill Ordinance No. 1590, New Series Page -2-

SECTION 3. Section 15.12.060 (Article 90-4 of the 1996 National Electrical Code) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) is hereby deleted in its entirety.

SECTION 4. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5. Effective Date; Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6th Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20th Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	
ABSENT:	COUNCIL MEMBERS:	
ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torre	z, City Clerk	Dennis Kennedy, Mayor
	E CERTIFICATE OF	THE CITY CLERK
CALIFORN 1590, New S	NIA, do hereby certify that the fore	K OF THE CITY OF MORGAN HILL, going is a true and correct copy of Ordinance No. f the City of Morgan Hill, California at their regular 02.
WIT	NESS MY HAND AND THE SEA	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk

ORDINANCE NO. 1591, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 15.16.020 (ADOPTION OF THE UNIFORM MECHANICAL CODE) AND 15.16.040 (AMENDMENTS AND DELETIONS) OF THE MORGAN HILL MUNICIPAL CODE AND ADOPTING THE 2001 EDITION OF THE "CALIFORNIA MECHANICAL CODE," AND THE 2000 EDITION OF THE "UNIFORM MECHANICAL CODE," PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, WITH AMENDMENTS, AS THE MECHANICAL CODE OF THIS CITY

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

WHEREAS, the City of Morgan Hill is adopting the following uniform codes: "California Mechanical Code" and the "Uniform Mechanical Code"; and,

WHEREAS, Health and Safety Code section 17958.5 permits a city to make changes or modifications to the uniform codes as deemed reasonable because of local climatic, geological or topographical conditions; and,

WHEREAS, the City Council finds that, pursuant to Health and Safety Code section 17958.7, amendments to the Morgan Hill Municipal Code and the Uniform Mechanical Code, as specifically set forth below and as already encompassed within Chapter 15.16, are reasonably necessary to accommodate local climate, geological, or topographical conditions.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 15.16.020 (Adoption of the Uniform Mechanical Code) of Chapter 15.16 (Mechanical Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Pursuant to Sections 50022.1 through 50022.4, inclusive, of the Government Code of the State of California, the text of that certain publication published and adopted by the International Conference of Building Association of Plumbing and Mechanical Officials, consisting of one volume, entitled, "California Mechanical Code 1998 2001 Edition," and the "Uniform Mechanical Code, 1997 2000 Edition," including the appendices thereto contained in the same volume, hereinafter collectively referred to as the "California Mechanical Code" and the "Uniform Mechanical Code," is hereby adopted as the rules, regulations and standards within this city as to all matters therein contained except as otherwise provided in this chapter. The mandatory requirements of the aforesaid appendices shall be enforceable to the same extent as if contained in the body of the California Mechanical Code and the Uniform Mechanical Code. One copy of the California Mechanical Code and the Uniform Mechanical Code will at all times be kept on file in the Office of the Building Official, and is available for public inspection."

City of Morgan Hill Ordinance No. 1591, New Series Page -2-

SECTION 2. Section 15.16.040 (Amendments and deletions) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"The following provisions of the $2000 \frac{1997}{1997}$ Uniform Mechanical Code shall be amended or deleted . . . "

SECTION 3. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	
ABSENT:	COUNCIL MEMBERS:	
ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	EXECUTIFICATE OF	THE CITY CLERK
CALIFORN 1591, New Se	IIA, do hereby certify that the forest	K OF THE CITY OF MORGAN HILL, going is a true and correct copy of Ordinance No. The City of Morgan Hill, California at their regular 12.
WIT	NESS MY HAND AND THE SEA	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk

ORDINANCE NO. 1592, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 15.20.010 (SHORT TITLE), 15.20.020 (ADOPTION OF THE CALIFORNIA PLUMBING CODE AND THE UNIFORM PLUMBING CODE), 15.20.030 (SCOPE, ORGANIZATION, ENFORCEMENT, FEES AND INSPECTIONS), 15.20.040 (AMENDMENTS AND DELETIONS), 15.20.050 (SECTION 604.2 AMENDED--WATER LINES AND FITTINGS), 15.20.060(A) (SECTION 608.2 AMENDED--PRESSURE REGULATORS), 15.20.070(A) (SECTIONS 609.3.1 AND 609.3.2 AMENDED--PIPING UNDER SLABS), 15.20.080(A) (SECTION 710.1 AMENDED-BACKWATER VALVES), AND 15.20.100(A) (SECTION 1001.0 AMENDED--VENTS AND TRAPS) OF CHAPTER 15.20 (PLUMBING CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MORGAN HILL MUNICIPAL CODE TO ADOPT THE 2001 EDITION OF THE "CALIFORNIA PLUMBING CODE," AND THE 2000 UNIFORM PUBLISHED BY THE INTERNATIONAL PLUMBING CODE ASSOCIATION OF PLUMBING & MECHANICAL OFFICIALS, WITH AMENDMENTS, AS THE PLUMBING CODE OF THIS CITY.

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

WHEREAS, the City of Morgan Hill is adopting the following uniform code: "California Plumbing Code," and the "Uniform Plumbing Code"; and,

WHEREAS, Health and Safety Code section 17958.5 permits a city to make changes or modifications to the uniform codes as deemed reasonable because of local climatic, geological or topographical conditions; and,

WHEREAS, the City Council finds that, pursuant to Health and Safety Code section 17958.7, the amendments to the Morgan Hill Municipal Code and the California Plumbing Code, and as already encompassed within Chapter 15.20, are necessary to accommodate local climate, geological, or topographical conditions as set forth in each applicable provision below.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 15.20.010 (Short Title) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.010 Short Title. This chapter shall be known as the "2001 California Plumbing Code" and the "2000 Uniform Plumbing Code" and may be cited as such."

SECTION 2. Section 15.20.020 (Adoption of the California Plumbing Code and the Uniform

City of Morgan Hill Ordinance No. 1592, New Series Page - 2 -

Plumbing Code) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.020 Adoption of the California Plumbing Code and the Uniform Plumbing Code. Pursuant to Sections 50022.1 through 50022.4, inclusive, of the Government Code of the state, the text of that certain publication published and adopted by the International Association of Plumbing & Mechanical Officials entitled "California Plumbing Code, 1998 2001 Edition," and the "Uniform Plumbing Code, 1997 2000 Edition," is adopted as the rules and regulations and standards within the city as to all matters therein contained except as otherwise provided in this chapter. One copy of the California Plumbing Code and the Uniform Plumbing Code will at all times be kept on file in the Office of the Chief Building Official, and is available for public inspection."

SECTION 3. Section 15.20.030 (Scope, organization, enforcement, fees and inspections) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.030 Scope, organization, fees and inspections. The scope, organization, enforcement, fees and inspections of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code must comply with those set forth in the 1991 1997 Uniform Administrative Code (see Chapter 15.04 of this title)."

SECTION 4. Section 15.20.040 (Amendments and deletions) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.040 Amendments and deletions. The following provisions of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code shall be amended or deleted:"

SECTION 5. Section 15.20.050 (Section 604.2 amended - Water lines and fittings) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.050 Section 604.2 amended - Water lines and fittings.

A. Section 604.2 of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code is amended to read as follows:

604.2 Copper tube for potable water piping shall have a weight of not less than type "L". **Plastic water piping will be considered on a case by case basis.**"

FINDING: Due to excessive water hardness in certain areas of the City dependant upon water source, and the internal corrosive potential of copper piping, use of plastic water piping may be proposed by applicants, and may be approved upon a showing that water hardness exists in a particular site and cannot be adequately mitigated.

SECTION 6. Section 15.20.060(A) (Section 608.2 Amended - Pressure Regulators) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.060 Section 608.2 amended - Pressure regulators.

A. Section 608.2 of the 1998 2001 California Plumbing Code and the 1997 2001 Uniform Plumbing Code is amended to read as follows:...."

SECTION 7. Section 15.20.070(A) (Section 609.3.1 and 609.3.2 amended - Piping under slabs) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.070 Sections 609.3.1 and 609.3.2 amended - Piping under slabs.

A. Section 609.3.1 of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code is amended to read as follows: "

SECTION 8. Section 15.20.080 (A) (Section 710.1 amended - Backwater valves) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.080 Section 710.1 amended - Backwater valves.

A. Section 710.1 of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code is amended to read as follows: "

SECTION 9. Section 15.20.100 (Section 1001.0 amended - Vents and traps) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"15.20.100 Section 1001.0 amended - Vents and traps.

- A. Section 1001.0 of the 1998 2001 California Plumbing Code and the 1997 2000 Uniform Plumbing Code is amended to read as follows:
- B. Findings: The changes or modifications in the requirements of the Uniform 2001 California Plumbing Code, 1994 edition, . . . "

City of Morgan Hill Ordinance No. 1592, New Series Page - 4 -

SECTION 10. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 11. Effective Date; Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6th Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20th Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSENT: ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	CERTIFICATE OF	THE CITY CLERK
CALIFORN 1592, New S	NIA, do hereby certify that the foreg	COPE THE CITY OF MORGAN HILL, oing is a true and correct copy of Ordinance No. the City of Morgan Hill, California at their regular 2.
WIT	NESS MY HAND AND THE SEA	L OF THE CITY OF MORGAN HILL.
DATE:		TOTAL TOPPING CITY OF T
		IRMA TORREZ. City Clerk

ORDINANCE NO. 1593, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 (ADOPTION OF THE MORGAN HILL CODE), OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS) OF THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITIONS OF THE CALIFORNIA BUILDING, ADMINISTRATIVE, ELECTRICAL, MECHANICAL AND PLUMBING CODES.

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code Section 17922; and,

WHEREAS, the City Council finds that the adoption of such provisions is necessary to enact a systematic method for regulation of the topics addressed in said uniform industry codes, and to foster the health, safety and welfare of the citizens of Morgan Hill.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 1.01.010 (Adoption of the Morgan Hill Municipal Code) of Chapter 1.01 (Code Adoption) of Title 1 (General Provisions) of the Morgan Hill Municipal Code is hereby amended to read as follows:

- **"1.01.010 Adoption of the Morgan Hill Municipal Code.** Pursuant to the provisions of Section 50022.1 through 50022.10 of the Government Code of the State of California, there is adopted the "Morgan Hill Municipal Code," 1987 edition, as published by Book Publishing Company, Seattle, Washington, including the following secondary codes incorporated therein by reference in whole or in part:
- A. "Uniform Building Code, 1997 Edition," "California Building Code, 1998 2001 Edition", promulgated by the International Conference of Building Officials;
- B. "Uniform Housing Code, 1997 Edition," promulgated by the International Conference of Building Officials;
- C. "Uniform Administrative Code, 1991 1997 Edition," promulgated by the International Conference of Building Officials;
- D. "Uniform Mechanical Code, 1997 2000 Edition," "California Mechanical Code, 1998 2001 Edition", promulgated by the International Conference of Building Officials Association of Plumbing and Mechanical;
- E. "Uniform Plumbing Code, 1997 2000 Edition," "California Plumbing Code, 1998 2001 Edition", promulgated by the International Association of Plumbing and Mechanical Officials;
- F. "Uniform Fire Code, 1997 Edition," "California Fire Code, 1998 Edition", promulgated by the International Conference of Building Officials and the Western Fire Chiefs Association;
- G. "National Electrical Code, 1996 1999 Edition," California Electrical Code 2001 Edition promulgated by the National Fire Protection Association;
 - H. "Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition,"

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promulgated by the International Conference of Building Officials, save and except those portions of the preceding secondary codes as are deleted, modified or amended by provisions of said Morgan Hill Municipal Code, 1987 edition.

From and after the effective date of the ordinance codified in this chapter, the Morgan Hill Municipal Code, 1987 edition, shall constitute the penal and regulatory ordinances of the city of Morgan Hill."

SECTION 2. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 3. Effective Date; Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6^{th} Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20^{th} Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	
ABSENT:	COUNCIL MEMBERS:	
ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	EXECUTIFICATE OF	THE CITY CLERK
CALIFORN 1593, New Se	NIA, do hereby certify that the foreg	K OF THE CITY OF MORGAN HILL, going is a true and correct copy of Ordinance No. the City of Morgan Hill, California at their regular 2.
WIT	NESS MY HAND AND THE SEA	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

APPLICATION ZA-02-13: ZONING TEXT AMENDMENT ESTABLISHING PROVISIONS FOR DEVELOPMENT AGREEMENTS

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Approve Negative Declaration
- 2. Waive the First and Second Reading of the Ordinance
- 3 Introduce Ordinance

Agenda Item # 22
Prepared By:

Planning Manager

Submitted By:

City Manager

EXECUTIVE SUMMARY: California Government Code Section 65864 establishes provisions for the adoption of Development Agreements. For some years now, the City has used Development Agreements as a means to guarantee and memorialize the commitments made by property owners and residential developers as part of the Measure P process. The Agreement is a binding contract that runs with the land until a certificate of completion is recorded. A certificate is recorded once the project or phase of development is completed and all Measure P commitments have been fulfilled.

A Development Agreement can also be adopted for a commercial or industrial development. In this case, the Development Agreement serves as a means of providing assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval that will not be altered. While the vast majority of the Development Agreements approved by the City Council are for residential developments, the City has approved Development Agreements for industrial developments, for example, with the developers of the Madrone Business Park and the Morgan Hill Ranch. In the future, the City may be asked to approve a Development Agreement for a commercial development. Given the extensive use of Development Agreements by the City and by some developers, the City Attorney determined that it would be prudent to incorporate the Government Code provisions relating to Development Agreements into the City's Municipal Code. The attached ordinance incorporates the provisions for Development Agreements into a new Chapter 18.80 in the Zoning Ordinance.

The Planning Commission, on October 8, 2002, voted 7-0 to recommend City Council approval of the attached Negative Declaration and Ordinance amending the Zoning Code.

ORDINANCE NO. 1594, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ENACTING CHAPTER 18.80 OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING DEVELOPMENT AGREEMENTS

WHEREAS, continuing pressure in the commercial and industrial real estate markets in the region due to the high costs and low availability of land have caused an increased interest in placing such development in the City; and,

WHEREAS, Government Code section 65864 finds that the lack of certainty in the approval of development projects can result in a waste of resources, escalate the costs of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would maximize efficient utilization of resources at the most economical cost to the public; and,

WHEREAS, the City Council finds that development agreements can strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and assure that appropriate measures to enhance and protect the environment are achieved; and,

WHEREAS, the City Council further finds and determines that the public health, safety and general welfare will be furthered by the adoption of an ordinance establishing procedures for entering into and administering development agreements to accomplish the foregoing purposes and corresponding benefits.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE FOLLOWING IS HEREBY ENACTED:

1. Chapter 18.80 is hereby added to the Municipal Code of the City of Morgan Hill as follows:

Chapter 18.80

DEVELOPMENT AGREEMENTS

Sections:

18.80.010	Purpose.
18.80.020	Definitions.
18.80.030	Applications.
18.80.040	Contents of development agreements.
18.80.050	Consideration of proposed development agreements

City of Morgan Hill Ordinance No. 1594, New Series Page -2-

18.80.060	Recordation.
18.80.070	Annual review.

18.80.080 Amendment or cancellation. 18.80.090 Miscellaneous provisions.

18.80.010 Purpose. The purpose of this chapter is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the city and developers to enter into development agreements. Such agreements shall be used for projects such as large multi phase developments, low income housing developments, and developments involving public service and facilities installations which may require several years to complete. To accomplish this purpose, the procedures, requirements and other provisions of this chapter are determined to be necessary to promote orderly growth and development, the economic welfare, and to ensure provision for adequate circulation, utilities and services

18.80.020 Definitions. The following terms when used in this chapter shall have the following respective meanings:

- A. "Applicant" means a person who has a legal or equitable interest in real property, and who applies for a development agreement for a project on that property pursuant to the procedures specified in this chapter, and who executes and is bound by the terms of the development agreement. "Applicant" includes a successor in interest to the rights and duties of the original applicant for a development agreement.
 - B. "City" means the City of Morgan Hill, a municipal corporation.
 - C. "City Clerk" means the City Clerk of the City of Morgan Hill.
 - D. "City Council" means the City Council of the City of Morgan Hill.
- E. "City Manager" means the City Manager of the City of Morgan Hill or the person (s)he designates to carry out all or part of the responsibilities for implementing this chapter.
- F. "Development agreement" means a development agreement entered into between the City and an applicant pursuant to this chapter.
 - G. "Director" means the Community Development Director of the City of Morgan Hill.
 - H. "General plan" means the General Plan of the City of Morgan Hill.
 - I. "Person" means an individual, group, partnership, firm, association, corporation,

City of Morgan Hill Ordinance No. 1594, New Series Page -3-

trust, governmental agency, governmental official, administrative body, tribunal or any other form of business or legal entity.

- J. "Planning Commission" means the Planning Commission of the City of Morgan Hill.
- K. "Project" means the development project that is the subject of a development agreement.

18.80.030 Applications.

- A. <u>Authority for adoption</u>. An applicant for a development project may request that the City review the application as a development agreement application in accordance with the following procedures. The City incorporates by reference the provisions of California Government Code Sections 65864-65869.5.
- B. <u>Forms and information</u>. The applicant shall submit an application for a development agreement on a form prescribed by the Director. The Director shall identify submittal requirements for applications for development agreements, and may require an applicant to submit such additional information and supporting data as deemed necessary by the Director to process the application.
- C. <u>Fees</u>. At the time of initial filing of the application, the applicant shall pay such fees and charges for the filing and processing of applications for development agreements and the administration of approved development agreements, including annual reviews, in such amounts as may be established by resolution of the City Council.
- D. <u>Authority to File Application</u>. An applicant shall have a legal or equitable interest in the real property which is the subject of the proposed development agreement. The City Manager shall require an applicant to submit proof of his or her interest in the real property and/or of the authority of any agent to act for the applicant. Such proof may include a title report, policy or guarantee, issued by a title company licensed to do business in the State, which evidences the requisite interest of the applicant in the real property.

E. <u>Initial review of application</u>.

- 1. The Director or his or her designee shall review each application to determine whether it is complete. If the application is found to be incomplete, the Director shall reject the application and, within forty-five (45) days after submittal of the application, shall inform the applicant of the items or steps necessary to properly complete the application.
- 2. Following completion of the application, the Director shall determine whether a project is consistent with the general plan and any applicable specific plan, including the precise development plan and guidelines of the

City of Morgan Hill Ordinance No. 1594, New Series Page -4-

PUD, Planned Unit Development district, or applicant has submitted an application for any necessary amendments to the general plan, PUD or specific plan.

In addition, the Director shall determine whether the project meets one of the following criteria:

- a. The project is a residential development awarded a building allotment pursuant to Section 18.78.125 of the Municipal Code; or
- b. The project is a commercial or industrial development and these three criteria are met:
 - (1) The project site is three acres or more in area; and,
 - (2) The project proposes to construct or rehabilitate multiple structures on the site, and the total floor area to be constructed or rehabilitated is at least one hundred thousand square feet; and,
 - (3) The project envisions a long-term or phased build-out such that, at the time of application, designs of all buildings and improvements cannot be reasonably specified in the manner required of use permit applications; or,

The project is a commercial or industrial development and there are other unique or compelling reasons why the project or the potential benefits to the community would warrant consideration in the form of a development agreement.

The Director shall also determine whether the proposed project comports with regulations of the zoning district in which the property lies, including identification of any aspects of the project which would require a variance were the application subject to review and action under the zoning ordinance.

18.80.040 Contents of development agreements. Following completion of the application and determination by the Director that the application meets the criteria enumerated above, the City Manager, or his or her designee, shall provide the applicant with the City's standard development agreement. The City Manager, or his or her designee, shall negotiate specific components and provisions of the development agreement with the applicant. The negotiated development agreement shall comport with the following requirements:

A. A development agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; the relation of the project to adjacent properties; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.

City of Morgan Hill Ordinance No. 1594, New Series Page -5-

- B. A development agreement shall contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
- C. A development agreement should clearly outline the benefits provided to the City from entering into the development agreement. Such benefits may include, but are not limited to:
 - 1. Construction of public facilities beyond those required as a condition of approval.
 - 2. Covenants to operate and maintain the private project at higher levels than would otherwise be required.
 - 3. Proposals to achieve General Plan goals not directly associated with the private project.
 - 4. Other proposals which, in the judgment of the Planning Commission and City Council, provide public benefits sufficient to justify a development agreement.
- D. A development agreement should include requirements for construction and maintenance of onsite and off-site improvements or payment of fees in lieu of such dedications or improvements.
- E. A development agreement should include, without limitation, conditions and restrictions imposed by the City with respect to the project including those conditions and restrictions proposed in any environmental impact report applicable to the project prepared and certified under the California Environmental Quality Act, and the City's regulations with respect thereto, in order to eliminate or mitigate adverse environmental impacts of the project.
- F. A development agreement should provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
- G. A development agreement shall be a contract that is negotiated and voluntarily entered into by City and applicant and may contain any additional or modified conditions, terms or provisions agreed upon by the parties.
- H. A development agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
- I. If the development agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
 - J. A development agreement may include any other provisions necessary to guarantee

City of Morgan Hill Ordinance No. 1594, New Series Page -6-

performance of obligations stated in the agreement.

K. All developments agreements, or any part of such development agreements, may be subject to subsequent condemnation proceedings by the City.

18.80.050 Consideration of proposed development agreements.

- A. <u>Negotiations</u>. The City Manager shall negotiate the specific components and provisions of the development agreement on behalf of the City.
- B. <u>Planning Commission Consideration</u>. Following negotiation of the development agreement, the Planning Commission shall consider the development agreement for recommendation to the City Council. Prior to making a recommendation for City Council action on a proposed development agreement, the Planning Commission shall hold a noticed public hearing to consider comments on the development agreement from other advisory bodies and from members of the public. The Planning Commission public hearing may, but need not, be held concurrently with the public hearing(s) on other land use approvals for the project. The City Manager shall make a draft of the proposed development agreement available for public review at least fifteen (15) days before the Planning Commission's public hearing on the proposed development agreement.
- C. <u>Recommendation by Planning Commission</u>. Within thirty (30) days after closing its public hearing, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination and supporting reasoning as to whether or not the proposed development agreement:
 - 1. Is consistent with the goals, objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.
 - 2. Is compatible with the uses authorized in the zoning district in which the real property is located.
 - 3. Duly considers City mitigation programs in effect at the time of execution of the agreement.
 - 4. Will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood.
 - 5. Complies with the provisions of the California Environmental Quality Act and City's procedures adopted pursuant thereto.
 - 6. Will not adversely affect the orderly development of property or the preservation of property values.
- D. <u>City Council public hearing</u>. The City Council shall hold a noticed public hearing prior to adoption of any development agreement. The City Council public hearing may, but need not, be held concurrently with the public hearing(s) on other land use approvals for the project.

E. <u>Decision by City Council</u>.

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- 1. After the City Council completes the public hearing, it may accept, reject or conditionally accept the recommendation of the Planning Commission; or in the event the Planning Commission has failed to make a recommendation, the City Council shall approve, disapprove or conditionally approve the development agreement. The City Council may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.
- 2. The City Council shall not approve a proposed development agreement unless it finds that its provisions are consistent with the general plan and any applicable specific plan. This requirement may be satisfied by a finding that the provisions of a proposed development agreement are consistent with proposed general plan or specific plan provisions which are to be adopted concurrently with the approval of the proposed development agreement. A finding of consistency may be made if, considering the general plan and/or specific plan as a whole and balancing competing provisions as appropriate, the City determines that the proposed development agreement does not conflict with the provisions of the general plan and/or specific plan.
- 3. A proposed development agreement shall be executed by the applicant before it is placed before the City Council for consideration at a public hearing.
- F. <u>Approval of development agreement.</u> The City Council shall have the exclusive authority to approve the development agreement. Approval of a development agreement shall be by ordinance.
- G. <u>Failure to receive notice</u>. The failure of any person to actually receive notice required by law or this chapter shall not affect the authority of the City to enter into, modify or terminate a development agreement, nor invalidate a development agreement entered into by the City under this chapter.

Section 18.80.060 Execution and recordation of development agreement.

- A. Within ten (10) days after the ordinance approving the development agreement takes effect, the City Manager shall execute the development agreement on behalf of the City, and the City Clerk shall record the development agreement with the Santa Clara County Recorder.
- B. If the parties to the agreement or their successors in interest amend or cancel the development agreement, or if the City terminates or modifies the development agreement for failure of the applicant to fully comply with the provisions of the development agreement, the City Clerk shall record notice of such action with the Santa Clara County Recorder.

Section 18.80.070 Annual review.

B. Time for and initiation of review.

- 1. The City Manager shall review each approved development agreement at least once a year, at which time the applicant shall be required to demonstrate compliance with the provisions of the development agreement.
- 2. The applicant shall initiate the required annual review by submitting a written request at least sixty (60) days prior to the review date specified in the development agreement. The applicant shall also provide evidence as determined necessary by the City Manager to demonstrate compliance with the provisions of the development agreement. The burden of proof by substantial evidence of compliance is upon the applicant.
- B. <u>Finding of compliance</u>. If the City Manager, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the development agreement, the City Manager shall issue a finding of compliance, which shall be in recordable form and may be recorded with the county recorder after conclusion of the review.

C. <u>Finding of noncompliance</u>.

- 1. If the City Manager finds the applicant has not complied with the provisions of the development agreement, the City Manager may issue a finding of noncompliance which may be recorded by the City with the county recorder after it becomes final. The City Manager shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance.
- 2. If applicant does not comply with any terms of compliance within the prescribed time limits, the development agreement shall be subject to termination or modification pursuant to Section 18.80.080(B) of this chapter.
- D. Appeal of determination. Within ten (10) days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the City Manager and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

Section 18.80.080 Amendment or cancellation.

A. Cancellation or modification by mutual consent. Any development agreement may

City of Morgan Hill Ordinance No. 1594, New Series Page -9-

be canceled or modified by mutual consent of the parties following compliance with the procedures specified in Section 18.80.050 of this chapter. A development agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and the City Manager.

- B. <u>Termination or modification after finding of noncompliance.</u> If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the City Manager may refer the development agreement to the City Council for termination or modification. The City Council shall conduct a public hearing. The burden of proof shall be on the applicant to establish at the public hearing that the development agreement has been complied with. After the public hearing, the City Council may terminate the development agreement, modify the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.
- C. <u>Rights of the parties after cancellation or termination.</u> In the event that a development agreement is canceled or terminated, all rights of the applicant, property owner or successors in interest under the development agreement shall terminate. If a development agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

18.80.090 Miscellaneous provisions.

A. Effect of development agreement.

- 1. Unless otherwise specified in the development agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the development agreement. The applicant shall not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.
- 2. A development agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the property as set forth in the development agreement. A development agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.
- 3. Unless otherwise specified in the development agreement, a development agreement shall not exempt the applicant from obtaining future discretionary land use approvals.
- B. <u>Rules affecting development agreement</u>. In the event that any regulation or law of the

City of Morgan Hill Ordinance No. 1594, New Series Page -10-

State of California or the United States, enacted or interpreted after a development agreement has been entered into, prevents or precludes compliance with one or more provisions of the development agreement, then the development agreement may be modified or suspended in the manner and pursuant to the procedures specified in the development agreement as may be necessary to comply with such regulation or law.

- C. <u>Interpretation</u>. This chapter governs the interpretation of any development agreement approved under this chapter.
- D. <u>Enforcement of a development agreement</u>. The procedures for enforcement, amendment, modification, cancellation or termination of a development agreement specified in this section and in California Government Code Section 65865.4 are non-exclusive. A development agreement may be enforced, amended, modified, canceled or terminated by any manner otherwise provided by law or by the provisions of the development agreement.
- E. <u>Public Hearings, generally</u>. Any public hearing held pursuant to this chapter shall be conducted as nearly as possible in accordance with the procedural standards prescribed in the Government Code for the conduct of zoning hearings. Each person interested in the matters shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement. No action, inaction or recommendation regarding a development agreement shall be set aside due to any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the development agreement unless the error is prejudicial and the complaining party sustained and suffered actual substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that an error is prejudicial or that injury was done if error is proven.

F. Judicial review; time limitation.

- 1. Any judicial review of an ordinance approving a development agreement shall be by writ of mandate pursuant to Section 1085 of the California Code of Civil Procedure; and judicial review of any City action taken by the City pursuant to this chapter, other than initial approval of a development agreement, shall be by writ of mandate pursuant to Section 1094.5 of the California Code of Civil Procedure.
- 2. Any action or proceeding to attack, review, set aside, void or annul any decision of the City taken pursuant to this chapter shall not be maintained by any person unless the action or proceeding is commenced within ninety days after the effective date of the decision.
- G. <u>Irregularity in proceedings</u>. No action, inaction, or recommendation regarding a proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the petition, application, notice, finding, record, hearing, report, recommendation, or any matter of procedure whatever, unless the error complained of was prejudicial and that by reason of the error,

City of Morgan Hill Ordinance No. 1594, New Series Page -11-

the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that an error is prejudicial or that injury was done if an error is shown.

- 2. **Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.
- 3. **Effective Date; Posting**. This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6th Day of November 2002 and was finally adopted at a regular meeting of said Council on the 20th Day of November, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

	NCIL MEMBERS:	
	COUNCIL MEMBERS:	
ABSENT:	COUNCIL MEMBERS:	
ABSTAIN:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez,	City Clerk	Dennis Kennedy, Mayor
	CERTIFICATE	OF THE CITY CLERK
CALIFORNI 1594, New Se	(A, do hereby certify that the f	ERK OF THE CITY OF MORGAN HILL, Foregoing is a true and correct copy of Ordinance No. iil of the City of Morgan Hill, California at their regular 2002.
WITN	NESS MY HAND AND THE	SEAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

KENT CONSTRUCTION - SUBSTITUTION OF SUBCONTRACTORS

Agenda Item # 23
Prepared By:
City Attorney
Submitted By:
City Manager

RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Determine whether to impose penalty on Kent Construction for violation of the Public Contracts Code provisions governing substitution of subcontractors.

EXECUTIVE SUMMARY:

Kent Construction is the contractor selected to construct the Community Playhouse. In April, they replaced subcontractor Associated Plumbing with Curro Plumbing due to Associated's failure to provide the requisite insurance. (See memo from Associated Plumbing attached hereto.)

However, a contractor whose bid has been accepted for a public works project must follow certain procedures to substitute subcontractors, including a general requirement that they cannot "[p]ermit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the awarding authority, or its duly authorized officer." (Public Contracts Code section 4107(b).) Based upon the correspondence we received, Kent Construction does appear to have violated 4107(b) of the Public Contracts Code as they substituted subcontractors without the City's permission (or knowledge).

Violations of Section 4107 are handled in accordance with Public Contracts Code section 4110, which requires that this matter be referred to the City Council, as the awarding authority, for determination of what penalty, if any, to impose for such violation. Section 4110 provides that:

"A prime contractor violating any of the provisions of this chapter violates his or her contract and the awarding authority may exercise the option, in its own discretion, of (1) canceling his or her contract or (2) assessing the prime contractor a penalty in an amount of not more than 10 percent of the subcontract involved, and this penalty shall be deposited in the fund out of which the prime contract is awarded."

The City has received correspondence from the South Bay Piping Industry Labor Management Trust indicating that the City has to impose one of the penalties referred to in Section 4110. Due to the use of the terms "may" and "in its own discretion," staff disagrees with the position of the Trust and believes that the Council has the option of not assessing any penalty.

FISCAL IMPACT: No budget adjustment required.



CITY COUNCIL STAFF REPORT MEETING DATE: NOVEMBER 6. 2002

ADOPT RESOLUTIONS OF NECESSITY FOR PROPERTY ACQUISITION FOR PROPOSED BUTTERFIELD EXTENSION, PHASE IV

Agenda Item # 24
Prepared By:
Senior Civil Engineer
Approved By:
Public Works Director
Submitted By:

City Manager

RECOMMENDED ACTIONS:

- 1) Adopt attached Resolutions of Necessity for portion of properties identified as APNs 817-029-004, 817-058-009, 817-008-026 and 817-059-006 for the proposed Butterfield Boulevard Phase IV improvements project.
- 2) Approve the expenditure of \$349,500 plus escrow and closing costs for the acquisition of these four properties.

EXECUTIVE SUMMARY: As Council is aware, staff has been working on acquiring right-of-way for the next phase of Butterfield Boulevard Construction, from San Pedro to Tennant Avenue. In 2001, the City of Morgan Hill began its efforts to purchase portions of these properties for the extension of Butterfield Boulevard. Real property appraisals were prepared by Clevenger Realty Appraisal Corp in 2001, some of which were updated in 2002, for all of these parcels and a final Environmental Impact Report was also prepared by David J. Powers & Associates in October 1992 for this project, both of which are incorporated into this staff report by reference.

Cutler and Associates, Inc., the City's right-of-way representative, has made offers in amounts not less than the appraised value of the properties, which offers are incorporated herein by this reference. Cutler and Associates, Inc. will continue to try to reach mutually satisfactory agreements to acquire the portions of the properties necessary for this project. Adopting Resolutions of Necessity for the Butterfield project is necessary to assemble the properties in the project area in a timely manner and maintain the project's schedule.

The owners of interest in the property have been notified of this hearing and their right to appear and be heard regarding items 1, 2, 3, and 5 in the findings of the attached resolutions.

The City will be depositing with the State Condemnation Deposit Fund in Sacramento the amount of \$349,500 which represents the total appraised value of these four parcels. The attached Resolutions of Necessity must be adopted by a two-third Council majority.

It remains our goal to begin the construction of this project next spring. The plans and specification for this project are almost complete and the project is scheduled to go out to bid in January 2003. Depending on the weather, the construction of the project will take approximately six months to complete. Based on this time schedule, it is anticipated that the construction of this phase of Butterfield Boulevard will be complete by Fall 2003.

By adoption of the attached resolutions, you are directing the City Attorney to institute and conduct the conclusion actions of eminent domain for the acquisition of the estates and interests necessary to construct the Butterfield extension.

FISCAL IMPACT: This project is fully funded in the CIP FY 2002/03 budget with a total appropriation of \$3,850,000. The funding source is RDA and project number is 504D00.

RESOLUTION NO. 5621

A RESOLUTION OF THE CITY OF MORGAN HILL DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(Butterfield Boulevard Extension Project)

WHEREAS, it is desirable and necessary for the City of Morgan Hill (hereinafter the "City") to acquire certain real property, more particularly described in Exhibits A and B, attached hereto and incorporated herein by this reference, for the Butterfield Boulevard Extension Project (hereinafter referred to as the "Project"); and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Section 37350.5 of the California Government Code, Section 4090 of the Street and Highways Code, and Section 1240.010 of the California Code of Civil Procedure; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to **John Lincoln Jr. Trustee Et Al**, whose property is to be acquired by eminent domain and whose names and addresses appear on the Santa Clara County Equalized Assessment Roll, and the property owners have been given a reasonable opportunity to appear and be heard before the City Council; and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owners of record to acquire the subject property for the amount which it has established to be just compensation therefor.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF MORGAN HILL finds and determines as follows:

- 1. The public interest and necessity require the Project.
- 2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- 3. The taking of the fee simple title in the real property more particularly described in Exhibit A is necessary for the Project.
- 4. All environmental review required by law has been prepared and adopted.
- 5. The offer required by Section 7267.2 of the California Government Code has been made to the owners of record of the real property.
- 6. The City's attorney or his or her duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain

City of Morgan Hill Resolution No. 5621 Page -2-

for the acquisition of the estates and interests aforesaid and to take such actions as he or she may deem advisable or necessary in connection therewith.

7. The City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the subject property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

***** CERTIFICATION *****

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5621, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

RESOLUTION NO. 5622

A RESOLUTION OF THE CITY OF MORGAN HILL DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(Butterfield Boulevard Extension Project)

WHEREAS, it is desirable and necessary for the City of Morgan Hill (hereinafter the "City") to acquire certain real property, more particularly described in Exhibits A, B, and C attached hereto and incorporated herein by this reference, for the Butterfield Boulevard Extension Project (hereinafter referred to as the "Project"); and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Section 37350.5 of the California Government Code, Section 4090 of the Street and Highways Code, and Section 1240.010 of the California Code of Civil Procedure; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to **Dieter Folk**, whose property is to be acquired by eminent domain and whose names and addresses appear on the Santa Clara County Equalized Assessment Roll, and the property owners have been given a reasonable opportunity to appear and be heard before the City Council; and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owners of record to acquire the subject property for the amount which it has established to be just compensation therefor.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF MORGAN HILL finds and determines as follows:

- 1. The public interest and necessity require the Project.
- 2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- 3. The taking of the fee simple title and easements in the real property more particularly described in Exhibits A, B, and C is necessary for the Project.
- 4. All environmental review required by law has been prepared and adopted.
- 5. The offer required by Section 7267.2 of the California Government Code has been made to the owners of record of the real property.
- 6. The City's attorney or his or her duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain

City of Morgan Hill Resolution 5622 Page -2-

for the acquisition of the estates and interests aforesaid and to take such actions as he or she may deem advisable or necessary in connection therewith.

7. The City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the subject property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

***** CERTIFICATION *****

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5622, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

RESOLUTION NO. 5623

A RESOLUTION OF THE CITY OF MORGAN HILL DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(Butterfield Boulevard Extension Project)

WHEREAS, it is desirable and necessary for the City of Morgan Hill (hereinafter the "City") to acquire certain real property, more particularly described in Exhibits A and B, attached hereto and incorporated herein by this reference, for the Butterfield Boulevard Extension Project (hereinafter referred to as the "Project"); and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Section 37350.5 of the California Government Code, Section 4090 of the Street and Highways Code, and Section 1240.010 of the California Code of Civil Procedure; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to **Arthur A. and Susan A. Biederman**, whose property is to be acquired by eminent domain and whose names and addresses appear on the Santa Clara County Equalized Assessment Roll, and the property owners have been given a reasonable opportunity to appear and be heard before the City Council; and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owners of record to acquire the subject property for the amount which it has established to be just compensation therefor.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF MORGAN HILL finds and determines as follows:

- 1. The public interest and necessity require the Project.
- 2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- 3. The taking of the fee simple title in the real property more particularly described in Exhibit A is necessary for the Project.
- 4. All environmental review required by law has been prepared and adopted.
- 5. The offer required by Section 7267.2 of the California Government Code has been made to the owners of record of the real property.
- 6. The City's attorney or his or her duly authorized designee is hereby authorized

City of Morgan Hill Resolution No. 5623 Page -2-

and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such actions as he or she may deem advisable or necessary in connection therewith.

7. The City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the subject property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

EXECUTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5623, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

RESOLUTION NO. 5624

A RESOLUTION OF THE CITY OF MORGAN HILL DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(Butterfield Boulevard Extension Project)

WHEREAS, it is desirable and necessary for the City of Morgan Hill (hereinafter the "City") to acquire certain real property, more particularly described in Exhibits A and B, attached hereto and incorporated herein by this reference (the "Subject Property"), for the Butterfield Boulevard Extension Project (hereinafter referred to as the "Project"); and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Section 37350.5 of the California Government Code, Section 4090 of the Street and Highways Code, and Section 1240.010 of the California Code of Civil Procedure; and

WHEREAS, the fee owners of the Subject Property have conveyed their interest in said property to the City but were unable to convey said property free and clear of a deed of trust with which it is encumbered;

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the beneficiary of said deed of trust to acquire its interest in the Subject Property for the amount which it has established to be just compensation therefor; and

WHEREAS, notice has been duly given to Wells Fargo Home Mortgage Inc., the beneficiary under said deed of trust, and said beneficiary has been given a reasonable opportunity to appear and be heard before the City Council.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF MORGAN HILL finds and determines as follows:

- 1. The public interest and necessity require the Project.
- 2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- 3. The taking of the fee simple title in the real property more particularly described in Exhibit A is necessary for the Project.
- 4. All environmental review required by law has been prepared and adopted.
- 5. The offer required by Section 7267.2 of the California Government Code has been made to the beneficiary under the above referenced deed of trust.

City of Morgan Hill Resolution No. 5624 Page -2-

- 6. The City's attorney or his or her duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such actions as he or she may deem advisable or necessary in connection therewith.
- 7. The City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the subject property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 6th Day of November, 2002 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

EXECUTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5624, adopted by the City Council at the Regular Meeting on November 6, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

1	Agenda Item # 25
Prepared By:	
- A	Asst. to the City Mgr.
5	Submitted By:

City Manager

STAFF RESPONSE TO DEVELOPMENT PROCESSING SERVICES STUDY

RECOMMENDED ACTIONS:

- **1.** <u>Accept recommendations</u> made by MAXIMUS for improving development processing services.
- 2. Consider staff report of the status of implementing recommendations.
- 3. <u>Direct staff</u> to report again on the implementation of recommendations in April 2003.
- **4.** <u>Direct staff</u> to study training and staffing needs associated with increased deployment of automated permit processing software, and to report back in January 2003.
- **5.** <u>Direct staff</u> to establish a process for Council adoption of a new development processing fee schedule which would be effective July 1, 2003.

EXECUTIVE SUMMARY:

On September 18, 2002, the Council received a study of the City's development-related services. Conducted by MAXIMUS, Inc., the study evaluated the efficiency and effectiveness of these services, and methods for better meeting customer expectations. MAXIMUS made 39 recommendations for improving City development processing services. The narrative in Attachment A and table in Attachment B provide details on each of the recommendations and their current status. Staff support the recommendations made, and expect that approximately 30 of the 39 recommendations will be completed this fiscal year.

The recommendations cover a wide range of improvements. Staffing issues are addressed, as well as the need to better document standards and schedules. Many of the recommendations can be implemented without any significant budget impact. Other improvements would require increased, ongoing resources for additional staffing and investment in information technology.

One improvement which may have significant budget consequences is to increase the deployment of an automated permit processing system. The Tidemark system has been purchased and installed in the Community Development Department. Both Public Works and BAHS planned to implement Tidemark in their departments this year. However, based on the experience of Community Development staff and staff in other communities, it appears a greater-than-anticipated investment in training and system maintenance will be required for the software to be used effectively. We propose to study this issue more closely and return to the Council in January with recommendations.

In light of these new needs, if the Council approves these recommendations, it would be appropriate for the Council to consider adopting the next incremental increase in development processing fees effective July 1, 2003. As you know, the recent fee increase did not fully cover the existing service levels. As a result, it may not be possible to implement the staffing and technology-related recommendations without additional funding.

FISCAL IMPACT:

No budget adjustment required at this time.

Attachment A Summary of Development Processing Services Study Recommendations and Current Implementation Status

The attached tables show the current status of each of the 39 recommendations made by MAXIMUS. Sixteen have already been completed and 10 are in process of completion. Of the remaining 13 recommendations, 5 are expected to be complete this year. With two exceptions, all of the recommendations are expected to be implemented by the end of 2004. The exceptions are online permit issuance, and the creation of a one-stop permit center in the current library building following construction of the new library.

The recommendations were ranked by priority, with 31 of the recommendations given the highest priority. Twenty-nine of the recommendations were scheduled for this year.

Status Report on Implementation of Study Recommendations

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
			Cr	oss-departmental	Recommendation	18		
1.0	Implement automated permitting & project tracking in all divisions. Provide tech support and training	1	Underway	Community Development Director/Public Works Director	No additional capital cost for CDD. \$50,000 cost for PW is budgeted in current year. Minimal cost for BAHS training.	Implementing Tidemark is underway in Planning, and budgeted in Public Works. However, significant additional costs are likely to arise. See staff comments.	Under study. Deploying Tidemark in Public Works and BAHS is planned, but needs additional study.	Significant technical support and staff training are required to expand Tidemark usage. Staff believes the cost to provide adequate support and training may be substantially more than budgeted. Staff proposes continuing to study the best method for acquiring the needed support and training, and returning to the Council with a report and budget adjustment request, if required.

			Timeline to			Currently	Current	Staff comments
No.	Recommendation	Priority	Initiate	Responsibility	Cost	budgeted?	status of	about implementing
						If not, staff	this	this recommen-
						funding	recommen-	dation
						recommendations	dation	
1.1	Acquire capability to provide online access for issuance of simple permits, for inspection requests and to provide access to project status	2	Within 3 years. (Depends on availability of reliable software)	Community Development Director/Public Works Director	IVR system in place for inspection requests by phone. Capital cost for e-permitting, incl. project status approx. \$125,000. Maint. cost	Not budgeted.	Pending. On schedule for 05/06 implementation, as recommended.	The reports staff have received from other communities is that this technology is not fully functional at this time. By waiting until FY 05/06, we hope to deploy a product that has been tested and reliably used elsewhere.
1.2	Acquire capability to integrate GIS with the permitting system	2	FY 2003-04	Public Works Director	\$6,000 per yr. Capital cost approx. \$10,000. Annual maint. cost unknown	May be recommended for purchase in 03/04.	Under study.	A GIS needs analysis is in process. Purchase of a GIS system may be recommended in the FY 03/04 budget.
2.0	Work toward creation of a one-stop permitting center housing all development review departments	3	FY2007-08	City Manager/ City Council	Unknown	Remodeling the library for City use is In CIP budget for FY 03-04. However, best estimates at this time are that the earliest this could occur is in FY 05-06.	Pending approval of library grant for construction of new library.	The current CIP assumes that a new Library will be built on Alkire Road and that the old library will be remodeled and used by CDD and PW staff.
2.1	Assign Engineering representative to City Hall part-time	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	In process. Will begin November 11, 2002	The exact schedule is being coordinated between PW and CDD.

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
3.0	Obtain expedited processing for economically important projects through the Econ. Dev. Coordinating Group and division managers	1	Immediate	BAHS Director/Comm unity Development Director/Public Works Director	No cost	No budget impact.	Complete, and ongoing.	This procedure has been incorporated. Staff will continue to evaluate the effectiveness of our procedures for processing economically important projects.
3.1	Document schedules for expedited processing of economically important projects	1	Immediate	BAHS Director/Divisi on Managers	No cost	No budget impact.	Complete, and ongoing.	
			P	lanning Division I	Recommendations	\$		
4.0	Fill Senior Planner vacancy and fund half- time contract planner	1	FY 2002-03	Community Development Director	Sr. Planner \$93,000 in current budget. Half-time contract planner approx. \$50,000	A budget adjustment will be required to continue the contract planner. Funds are available from the unallocated balance in the Community Develop. Fund	In process. Contract planner in place. Senior Planner to be hired by November 30.	The contract planner is funded from salary saving from the vacant senior planner position. Continuing the contract planner after the hire of the Senior Planner will require a budget amendment.
5.0	Upgrade performance standards and improve performance measurement for development review in Planning	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Pending. Work will begin in 01/03.	The Division Policy & Procedures Manual will be updated to incorporate these recommendations.
5.1	Begin routing applications within two work days	1	Underway	Planning Manager	No cost	No budget impact.	Complete	
5.2	Establish timelines for initial reviews and resubmittal reviews	1	Immediate	Planning Manager	No cost	No budget impact.	In process	

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
5.3	Comply with recommended timelines for building plan check review	1	When staffing allows	Planning Manager	Staffing costs shown in 4.0	Budget adjustment will be required to continue contract planner position.	Pending	Staff positions expected to be filled by 11/30/02
5.4	Use Tidemark system to alert for deadlines and measure development review performance in Planning	1	FY 2002-03	Planning Manager	No additional cost (system is being implemented)		In process	
5.5	Track re-submittals in Planning and review when more than one is required	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	This has been added to the Division Work Plan as one of the performance measures
5.6	Clarify customer service policies and notify applicants	1	Immediate	Planning Manager	No cost	No budget impact.	Pending. Work will begin in 01/03.	To be included in the update of the policy & procedures manual.
5.7	Document meeting results in writing	1	Underway	Planning Manager	No cost	No budget impact.	Complete and on- going	This recommendation is already a standard practice.
6.1	Base Architectural and Site Review on definitive standards	1	Underway	City Council/ ARB/Comm. Dev. Director	ARB handbook and design review ord. underway. Added cost \$4,000	Budgeted 02-03. Additional cost is within authorized limit for City Manager approval.	In process. Preliminary draft of new standards complete	
6.2	Cite specific standards for architectural and site design requirements	1	Immediate	ARB/Planning Manager	No cost	No budget impact.	Pending	Will be implemented following completion of recommendation 6.1
6.3	Forward non-compliant project designs without delay to ARB for disposition	1	Underway	Planning Manager	No cost	No budget impact.	Complete and ongoing	This is now a standard practice.

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
6.4	Reconsider use of City- initiated PUD rezoning to control design of commercial developments	2	FY 2002-03	Community Development Director	Can be included in zoning ordinance update. No added cost.	No budget impact.	In process	
7.0	Consider changes to Measure P to reduce processing time and staff workloads	2	FY 2003-04	City Council/ Voters	Possible cost reduction		In process	Update committee has been appointed. Recommendations to City Council in 02/03.
8.1	Negotiate blanket contracts with consultants for environmental review	1	FY 2002-03	Planning Manager/City Council	No cost	No budget impact.	In process. RFP/RFQ to be completed 11/02	
8.2	Phase out multiple files for a single project	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Pending	Evaluating the feasibility. Document storage may require more than one folder under a single file number.
			Eng	gineering Division	n Recommendation	ns		
9.1	Reduce processing time goals for initial submittals in Engineering to 6 weeks	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete	May require extension of Plan Checking Services contract.
9.2	Comply with recommended timelines for building plan check review	1	FY 2002-03	Public Works Director	Minimal Cost	No budget impact.	In process. Will begin 11/11/02.	This will be possible with the part-time assignment of an engineer to City Hall, as recommended in 2.1.

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
9.3	Use Tidemark system to alert for deadlines and measure development review performance in Engineering	1	FY 2002-03	Public Works Director	No cost	See notes on recommendation 1.	Pending. Deploying Tidemark in PW is planned, but needs additional study.	See notes on recommendation 1. The issues identified need to be resolved, and appropriate funding determined.
9.4	Track re-submittals in Engineering and review when more than two are required	1	FY 2002-03	Public Works Director	No cost	No budget impact.	Complete	
9.5	Clarify customer service policies and notify applicants	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
9.6	Document meeting results in writing	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
10.0	Develop fast-track processing procedures in Engineering for simple projects	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	In process. Will begin 11/11/02	This will be possible with the part-time assignment of an engineer to City Hall, as recommended in 2.1.
			В	uilding Division I	Recommendation	ıs		
11.1	Define plan check timelines for different project types in Building	1	Immediate	Chief Building Official	No cost	No budget impact.	In process. Will begin 11/11/02	This will be possible with the part-time assignment of an engineer to City Hall, as recommended in 2.1.
11.2	Route building plans to other divisions within 2 work days	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete	

No.	Recommendation	Priority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommen- dation
11.3	Eliminate unnecessary routing of building plans to other divisions	1	FY 2002-03	Chief Building Official	No cost	No budget impact.	Complete	
11.4	Do in-house plan check for all building plans with a recommended plan check goal \leq 5 days	2	FY 2003-04	Chief Building Official	Possible cost reduction.	No budget impact.	Complete	
11.5	Track review times for all units involved in plan check process and prepare reports	1	FY 2002-03	Chief Building Official	Minimal cost	No budget impact.	Complete	
12.0	Respond to 95% of building inspection requests within 1 work day and all within 2 days	1	Ongoing	Chief Building Official	No cost	No budget impact.	Complete	
13.0	Create a full-time position for a building maintenance supervisor	2	FY 2003-04	Community Development Director	Unknown. Much of cost should be offset by savings in contract services	Will be budgeted for FY 03-04. Staff estimate that \$12k in contract plan check fees would help offset the staffing increase.	Pending.	
14.0	Reclassify one existing building inspector position to a senior building inspector position	2	FY 2003-04	Community Development Director	Added cost approx. \$10,000 per year	May be budgeted for FY 03-04.	Pending	Staff are studying the City's facilities maintenance structure and operations, and will consider this recommendation as part of the study.
15.0	Develop more detailed application brochures for most common types of plan checks	1	FY 2003-04	Chief Building Official	Minimal cost	No budget impact.	Complete.	



CITY COUNCIL STAFF REPORT **MEETING DATE:** November 6, 2002

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UPDATE ON BUDGET AND REVENUE FORECAST

RECOMMENDED ACTIONS:

1) Direct City Manager to reduce General Fund costs to a target level 4% below budget, except Fire and Medical Services, & to minimize adverse service effects.

2) Approve using \$189,000 of the General Fund reserve designated for economic uncertainty to finance the 2002/03 budget.

	1 Fund	General	the	for	sources	revenue	potential	explore	to 6	Committee	Finance	Direct the	3)
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Agenda Item # 26 repared By: Finance Director **Submitted By:** City Manager

EXECUTIVE SUMMARY: As a result of the continued economic recession, staff anticipates that the City will suffer a \$367,000 net shortfall in budgeted revenues in the current year. A projected \$530,000 shortfall in expected sales taxes, a \$100,000 decrease in State mandated cost reimbursements, and an \$87,000 drop in investment earnings are projected to be offset by an extra \$235,000 in motor vehicle-in-lieu fees, an increase of \$84,000 in TOT taxes, and an additional \$31,000 in other revenue. The sales taxes loss represents 9%, less than the amount budgeted. The actual amount collected for the latest quarter was 10% less than the amount collected one year ago. The loss in mandated cost reimbursements results from the State's Budget dilemma. Falling interest rates have caused the projected drop in investment earnings. Exhibit A summarizes General Fund revenue projections for 2002/03.

When the \$367,000 revenue shortfall is added to the \$263,000 excess of appropriations over estimated revenues for the adopted 2002/03 budget, the projected excess of expenditures over revenues without any corrective actions would be \$630,000. However, when the budget was adopted, the City Council directed staff to manage the budget to bring the \$263,000 deficit down to \$0 by year-end.

In response to the estimated shortfall, staff recommends that total General Fund expenditures this year, other than Fire and Medical Services costs, be reduced to a target level approximately 4% below the budget. This action would save \$446,000 and would meet the Council's previous direction to save the \$263,000 as well as covering \$183,000, or half, of the current revenue shortfall. To cover the remaining \$184,000 of the 2002/03 revenue shortfall, staff recommends funding from the General Fund's \$1,182,000 designation for economic uncertainty.

In reducing General Fund expenditures, our plan is to minimize service reductions, if possible. We still plan to complete the 2002/03 work plan, although some projects may be delayed. However, the proposed 4% target budget reduction is more difficult to implement this year than last because the most painless steps have already been taken. The only significant increases in General Fund costs within the 2002/03 budget related to Recreation and Police services. A "soft freeze" on new hires, consistent with our budget strategy, has been implemented and only necessary Recreation and Police positions have been filled. We are at an important, but *not* desperate point. The City's action should be to prudently manage costs within available resources, as the City has done over the past ten years. The attached staff memo further describes the impact of General Fund budget reductions.

Staff believes it is appropriate to consider the need for new or increased revenue sources, subject to Proposition 218 limits and to community support. The Finance Committee will be looking at this issue. Future alternatives will be to make deeper program cuts, raise new revenues, and/or to spend down reserves.

FISCAL IMPACT: The recommended actions will allow the City to finance budgeted activities.

SUMMARY OF PROJECTED GENERAL FUND REVENUES	00,0000
gfrev03pro2	

EXHIBIT A

2000/01 - 2002/03

							_			_	_	~ ~		
PROJECTED OVER(UNDR) BUDGET	(530,000)	84,000	11,600	20,000	(414,400)	550	235,000	135,000		(386)	(87,400)	(200)		(366,839)
PROJECTED 2002/03	2,008,000 4,800,000	976,000	300 000	240,000	9,289,000	210,000	2,200,000	2,328,300	97,000	419,000	637,000	1,855,937 118,000 1,973,937	925,332	15.879.569
2002/03 BUDGET	2,008,000 5,330,000	892,000	965,000	220,000	9,703,400	209,450	1,965,000	2,193,300	97,000	419,389	724,400	1,855,937 118,200 1,974,137	925,332	16.246.408
2001/02 UNAUDITED FINAL	2,167,507 4,870,295	931,716	954,641	267,399	9,481,263	205,595	1,904,697	2,159,403	108,962	350,660	628,086	1,575,484 19,483 1,594,967	868,272	15.397.208
2000/01 <u>ACTUAL</u>	1,848,188 5.532.132	1,369,168	854,011	304,828	10,183,580	200,892	1,733,134	2,146,538	90,225	348,446	859,365	in transfers 135,887	1,083,357	15 048 290
REVENUE	TAXES: Property Taxes Sales Taxes	TOT (Hotel) Taxes	Franchise Fees	Public Satety Sales Taxes Property Transfer Taxes	TOTAL TAXES	LICENSES/PERMITS	REVENUE FROM OTHER AGENCIES: Motor Vehicle In-lieu Fees	TOTAL REVENUE FROM OTHER AGENCIES	FINES & PENALTIES	CHARGES - CURRENT SERVICES	INVESTMENT EARNINGS & RENT	OTHER General Administration & Overhead Other	TRANSFERS IN	TOTAL DEVENIE & TDANSEEDS IN

Memorandum



City Manager's Office

Date: October 31, 2002

To: Ed Tewes, City Manager

Jack Dilles, Finance Director

From: Melissa Stevenson Dile, Assistant to the City Manager

Subject: Impact of General Fund Budget Reductions

The proposed General Fund budget cuts are intended to have minimal impact on services to the community. The cuts will have an effect internally, however, as they are made from an already-lean operating budget. In some cases, departmental workplan items, performance measures or interdepartmental services may be affected. In addition, departmental cuts may require use of general City reserves if unanticipated needs arise. The main strategies used to achieve the budget cuts are listed below, along with examples of the impact of implementing the strategies.

Elimination of Contingency Funds in Departmental Budgets

In some departments, funds were budgeted as contingencies. For example, supplemental funds were budgeted in the City Clerk's Office for unforseen expenses related to the creation of Council office space. In addition, the Building Maintenance division budgeted for general replacement needs. While it is reasonable to expect that furniture or fixtures will need to be replaced, the specific needs are not known ahead of time. Such funding may be cut. If this occurs and unplanned expenses arise over the course of the year, such expenses would not be able to be covered in departmental budgets.

Delayed Filling of Vacant Positions Will Reduce Turn-around Time for Internal Services

We will continue to monitor vacancies and evaluate whether vacant positions need to be filled immediately, or at all. In the City Attorney's Office, City Clerk's Office, Finance Department and Police Department, managers propose to delay filling vacancies. These delays are not expected to reduce service to the public, but would have an impact internally. Current staff would not be able to fulfill requests from other departments as quickly as desired, or to assume new special projects as readily as they could with full staffing. An example is that long-term projects, such as revamping the code enforcement and sewer ordinances, could be delayed.

Some Service Cuts May be Required

To reach our overall General Fund budget reduction may require some service cuts or user fee increases in Recreation. Unlike other General Fund departments which have vacant positions, salary savings are not likely in Recreation. In addition, funds for several major Recreation projects, such as the City's presence in the Independence Day parade and at the Taste of Morgan Hill, have already been spent. Funds are also committed for the Community and Cultural Center grand opening. Thus, to achieve a budget reduction in Recreation, staff are considering reducing the size and distribution of the Recreation Guide, ending support for lower-impact programs such as the YAC Skate Jam, and replacing Art A La Carte with programs at the Community and Cultural Center.

It is important to note that the proposed cuts would not diminish the City's commitment to training and continuing education for employees. This commitment is even more important when employees are asked to work creatively and to do more with less.



CITY COUNCIL STAFF REPORT

MEETING DATE: (insert meeting date)

FUND RESERVE & DESIGNATION POLICY RECOMMENDED ACTION:

Discuss and approve the proposed "Fund Reserve & Designation Policy"

Agenda Item # 27
Prepared By:
Finance Director
Submitted By:
City Manager

EXECUTIVE SUMMARY: The attached "Fund Reserve & Designation Policy"

has been analyzed and approved by the Finance and Audit Committee, so that this policy may be included in the Budget Document and may serve as a guide for current and future budgetary decisions and appropriate administrative action. The purpose of the policy is to target the minimum level necessary to maintain the City's credit worthiness and to adequately provide for economic uncertainties, local disasters or catastrophes, future debt or capital obligations, cash flow requirements and legal requirements.

The policy focuses primarily on the General Fund, but also includes separate sections that apply to the Sewer, Water, Community Development, Unemployment, Workers' Compensation, and General Liability Funds. The policy indicates that the General Fund should maintain 17% of annual projected revenues as a minimum general reserve, maintain an additional 7% designated for non-recurring emergencies, and a 7% designated for economic uncertainty. The policy also provides that any unreserved, undesignated funds available in addition to the above items should be allocated for: 1) Increases in service delivery levels and/or 2) Increases in "trust" funds for ongoing maintenance (e. g. parks maintenance, community center operations).

The designation for economic uncertainty is necessary because the City's General Fund operations are highly dependent on two volatile revenue sources that increase or decrease with changes in the economy: sales taxes and transient occupancy taxes (TOT). Under the proposed policy, a portion of the amounts designated for Economic Uncertainty may be made available for appropriation in any budget year in which the cumulative amount of the projected increase in sales taxes and TOT revenues, from 2001/02 through the year for which a budget is proposed, is *less than* the amount projected based upon the change in population and the change in the cost of living (CPI) over the same period. The amount to be "released" for appropriation would equal only that amount needed to bring the projected sales tax and TOT revenue up to the amount that would have been generated had the two revenue sources increased at the rate of the projected increase in population and CPI over the two year period.

The Designation for Economic Uncertainty would be replenished with sales taxes and TOT revenues up to the 7% level once the cumulative amount of the projected increase in sales taxes and TOT revenues, from 2001/02 through the year for which a budget is proposed, is *more than* the amount projected based upon the change in population and the change in the cost of living (CPI) over the same period.

Also attached is an example showing calculations for reserves and designations for the General Fund.

FISCAL IMPACT: The proposed policy would serve as a policy to provide for future financial planning and prudent use of available resources for the City's key operating funds, so that the City may provide services to the community in an efficient and effective manner.

Proposed Fund Reserve & Designation Policy

Purpose

The City of Morgan Hill *proposes* this policy to target the minimum level necessary to maintain the City's credit worthiness and to adequately provide for economic uncertainties, local disasters or catastrophes, future debt or capital obligations, cash flow requirements and legal requirements.

The City shall maintain unappropriated fund balance or working capital in the General Fund, Water and Sewer operating funds, Water and Sewer rate stabilization funds, Community Development Fund, and certain internal service funds.

Policy

General Fund

The City shall make every effort to keep a minimum general reserve level equivalent to 60 days (17%) of the total General Fund projected revenues for the budget year. This general reserve shall provide for the continuance of general City operations should an unexpected event, other than an emergency or an economic recession, befall the City, causing a financial drain on City financial resources. This reserve will protect the City and provide staff time to develop a plan to confront fiscal challenges that may arise. In addition, the General Fund should also have a designated fund balance consisting of at least:

Emergencies (non-recurring): 7% of annual projected revenues

Economic Uncertainty 7% of annual projected revenues

When the General Fund reserve level or the Designation for Emergencies has been reduced below the minimum, City staff shall present a plan to bring the level back to the minimum.

In addition, it is sometimes appropriate for the City to designate portions of the reserve for other temporary, non-capital project purposes, such as start-up costs for a new facility, project, or program. Once this new activity begins and the need for this designation has passed, the designation shall be eliminated.

The designations may be increased or decreased from year to year in accordance with this policy and as adopted in the annual budget.

Any unreserved, undesignated funds available in addition to the above items should be allocated for:

Increases in service delivery levels

Increases in "trust" funds for ongoing maintenance (e. g. parks maintenance, community operations)

Designation for Economic Uncertainty

The designation for economic uncertainty is necessary because the City's General Fund operations are highly dependent on two volatile revenue sources that increase or decrease with changes in the economy: sales taxes and transient occupancy taxes (TOT).

A portion of the amounts designated for Economic Uncertainty may be made available for appropriation in any budget year in which the cumulative amount of the projected increase in sales taxes and TOT revenues, from 2001/02 through the year for which a budget is proposed, is *less than* the amount projected based upon the change in population and the change in the cost of living (CPI) over the same period.

The amount to be "released" for appropriation shall equal only that amount needed to bring the projected sales tax and TOT revenue up to the amount that would have been generated had the two revenue sources increased at the rate of the projected increase in population and CPI over the two year period.

The Designation for Economic Uncertainty shall be replenished with sales taxes and TOT revenues up to the 7% level once the cumulative amount of the projected increase in sales taxes and TOT revenues, from 2001/02 through the year for which a budget is proposed, is *more than* the amount projected based upon the change in population and the change in the cost of living (CPI) over the same period.

Enterprise Funds

Water and Sewer Operating Funds

The City shall make every effort to keep a minimum reserve level of 25% of the appropriated operating budget for each of these enterprise operating funds.

Water and Sewer Rate Stabilization Funds

The City shall make every effort to keep a minimum reserve level for each of these funds equal to 20% of the annual estimated utility usage revenue accounted in for in the operating budget, in case of a temporary drop in customer demand.

Community Development Fund

The City shall make every effort to keep a minimum reserve level of 30% of the appropriated operating budget for the Community Development Fund, in order to provide for those temporary periods when less development activity occurs and less revenue is collected by the City.

Internal Service Funds

<u>Unemployment</u>

The City shall make every effort to maintain a minimum reserve level in the Unemployment Fund equal to 100% of the appropriation for unemployment claims.

Worker's Compensation

The City shall make every effort to maintain a minimum reserve level for Worker's Compensation equal to the incurred expenses remaining unpaid for all open claims.

General Liability

The City shall make every effort to maintain a minimum reserve level equal four times the self insured retention for general liability.

Encumbrances

Reserves for Encumbrances are established in each fund during each fiscal year to reserve fund balance in the amount equal to the City's unpaid obligations and legal commitments. Staff shall bring to the City Council for acceptance a list of all outstanding encumbrances related to unfinished projects following the end of each fiscal year. The total of these encumbrances shall be added to the new year's budget in recognition that these amounts were financed with fund balance reserved in the prior fiscal year.

resanyl APPLICATION OF PROPOSED GENERAL FUND RESERVE & DESIGNATION POLICIES

TOTAL PROJECTED FUND BALANCE AT 7/1/02		10,749,000
GENERAL RESERVE = TO 17% OF BUDGETED 2002/03 REVENUE OF \$16,246,000:	(2,762,000)	
DESIGNATION FOR EMERGENCIES: = TO 7% OF BUDGETED 2002/03 REVENUE:	(1,137,000)	
DESIGNATION FOR ECONOMIC UNCERTAINTY: = TO 7% OF BUDGETED 2002/03 REVENUE:	(1,137,000)	
DESIGNATION FOR FIRE MASTER PLAN IMPLEMENTATION:	(1,400,000)	
TOTAL IDENTIFIED RESERVES AND DESIGNATIONS FOR GENERAL FUND:		(6,436,000)
EXCESS OF BUDGETED EXPENDITURES OVER REVENUES FOR 2002/03:		(263,000)
REMAINING PROJECTED UNRESERVED AND UNDESIGNATED FUND BALANCE AT 6/30/03:		4,050,000
PROPOSED ANALYSIS OF DESIGNATION FOR ECONOMIC UNCERTAINTY FOR 2002/03:		
SALES TAX EXPECTED FOR 2001/02 (actual 2000/01 + CPI + population growth) TOT EXPECTED IN 2001/02 (actual 2000/01 + CPI + population growth) TOTAL SALES TAX & TOT ORIGINALLY EXPECTED IN 2001/02:	5,715,000 1,414,000 7,129,000	
LESS SALES TAX RECEIVED IN 2001/02 LESS TOT RECEIVED IN 2001/02 TOTAL SALES TAX & TOT RECEIVED IN 2001/02 5,8	4,870,000 932,000 5,802,000	
NET SHORTFALL IN 2001/02 SALES TAX & TOT	1,327,000	

APPLICATION OF PROPOSED GENERAL FUND RESERVE & DESIGNATION POLICIES

1 1	4,800,000 976,000 5,776,000	1,641,000	2,968,000	184,000
EXPECTED SALES TAX FOR 2002/03 BASED ON CPI & POPULATION GROWTH EXPECTED TOT FOR 2002/03 BASED ON CPI & POPULATION GROWTH TOTED TOT FOR 2002/03 BASED ON CPI & POPULATION GROWTH TOTAL EXPECTED SALES TAX & TOT FOR 2002/03 BASED ON CPI & POPULATION GROWTH	PROJECTED SALES TAX FOR 2002/03 PROJECTED TOT FOR 2002/03 TOTAL PROJECTED SALES TAX & TOT FOR 2002/03	NET SHORTFALL IN EXPECTED SALES TAX & TOT FOR 2002/03	TOTAL PROJECTED SHORTFALL IN SALES TAX & TOT FOR 2001/02 & 2002/03 & AMOUNT OF DESIGNATION FOR ECONOMIC UNCERTAINTY THAT <u>COULD BE</u> RELEASED FOR APPROPRIATION:	AMOUNT OF DESIGNATION FOR ECONOMIC UNCERTAINTY <u>PROPOSED TO</u> <u>BE</u> USED TO BALANCE 2002/03 BUDGET (SEE SEPARATE STAFF REPORT)



CITY COUNCIL STAFF REPORT MEETING DATE: November 6, 2002

COUNCIL DIRECTION REGARDING SCHEDULING SPECIAL MEETINGS

RECOMMENDED ACTION:

Council Discussion and Direction regarding Scheduling/Calling of Special Meetings.

EXECUTIVE SUMMARY:

At the September 25, 2002 Council meeting, Council Member Tate requested that staff agendize scheduling of special City Council meetings for general discussion.

The concerns regarding scheduling of special meetings stemmed from the three special meetings scheduled on September 16 at different times, conflicting with the scheduled Finance & Audit Committee meeting.

There are occasions when the Council or staff requests that special City Council meetings be scheduled. Government Code Section 94956 - Special Meetings; Notice states that:

"A special meeting may be called at any time by the presiding officer of the legislative body of a local agency or by a majority of the members of the legislative body, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24-hours before the time of the meeting and the place of the special meeting and the business to be transacted . . . "

When City Clerk staff is advised that there is a need to schedule a special meeting, City Clerk staff makes every attempt to contact the Mayor and each Council Member to inquire as to availability at least 24-hours prior to posting the special meeting agenda. When the second special meeting was called on September 16, staff did not realize that two Council members were attending the Finance & Audit Committee meeting. The City Manager and Executive Team discussed the need to streamline meetings for the Council. Therefore, since the September 16 meeting, City Clerk staff has been designated as the "clearinghouse" for all requests for Council meetings. Staff members have been asked to utilize City Clerk staff to schedule Council member meetings with the exception of scheduled ongoing Council subcommittee meetings.

City Clerk staff will make every effort to appropriately coordinate special Council meetings with the Mayor and four Council members. There are instances when a Council member or two may have conflicting schedules and are unable to attend a special meeting. Staff would like direction in this regard. The City Clerk has worked with the City Attorney to amend Council Policy 2.3 to state that "Staff will consult the Council's master calendar and attempt to contact all Council members prior to calling a special meeting to determine availability, but circumstances may not allow for such contact. Council members should give their calendar to the City Clerk on at least a weekly basis, and specify times when they are not available for special meeting." Staff seeks Council comments and directions with regards to Policy 2.3 and to advise what days and/or hours are convenient for Council members to attend special meetings.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 28
Prepared By:

Council Services & Records Manager

Approved By:

City Attorney

Submitted By:

City Manager